

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE DISTRICT OF NEW MEXICO  
3 UNITED STATES OF AMERICA,  
4 Plaintiff,  
5 vs. NO: CR-15-4268 JB  
6 ANGEL DELEON, et al.,  
7 Defendants.  
8

9 Transcript of excerpt of testimony of  
10 GERALD ARCHULETA and 104 HEARING (including  
11 testimony of GERALD ARCHULETA and BRYAN ACEE)  
12 February 14, 2018

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25 EXAMINATION OF GERALD ARCHULETA

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1 THE COURT: All right. Mr. Beck, does the  
2 Government have its next witness or evidence?

3 MR. BECK: Yes, Your Honor. The United  
4 States calls Gerald Archuleta.

5 Your Honor, while we're waiting, the  
6 United States moves to admit Government's Exhibits  
7 690, 691, and 246 --

8 THE COURT: You can bring him on in.

9 MR. BECK: -- which is Mr. Archuleta's  
10 plea agreement, his addendum, and his penitentiary  
11 pack, respectively.

12 THE COURT: What was the last number on  
13 that?

14 MR. BECK: 246.

15 THE COURT: All right. Mr. Archuleta,  
16 before you're seated, Ms. Standridge will swear you  
17 in. So raise your right hand to the best of your  
18 ability, and she'll swear you in.

19 GERALD ARCHULETA,  
20 after having been first duly sworn under oath,  
21 was questioned, and testified as follows:

22 THE CLERK: Please be seated. State and  
23 spell your name for the record.

24 THE WITNESS: I'm Gerald Archuleta.  
25 G-E-R-A-L-D, A-R-C-H-U-L-E-T-A.

1 THE COURT: Mr. Archuleta. Mr. Beck.

2 Any objection to 690, 691, and 246?

3 MR. LOWRY: No, Your Honor.

4 THE COURT: Not hearing any objection,  
5 Government's Exhibits 690, 691, and 246 will be  
6 admitted into evidence.

7 (Government Exhibits 690, 691, and 246  
8 admitted.)

9 THE COURT: Mr. Beck.

10 EXAMINATION

11 BY MR. BECK:

12 Q. Good morning, Mr. Archuleta.

13 A. Good morning.

14 Q. Are you now or have you ever been a member  
15 of the Sindicato de Nuevo Mexico?

16 A. I've been a member of the Syndicate of New  
17 Mexico, yes.

18 Q. And when were you brought into the SNM?

19 A. Around the middle of 1988.

20 Q. And where were you at that time?

21 A. At the main facility in cell block 5.

22 Q. Is that the main facility at the  
23 Penitentiary of New Mexico in Santa Fe?

24 A. Yes, sir.

25 Q. And who brought you into the SNM?

1           A.     There were several brothers that sponsored  
2 me when I first arrived. The names were Fernie  
3 Hernandez, Robert Martinez, Fred Dog Sanchez, Albert  
4 Chavez, an individual by the name of Raccoon, who  
5 was ultimately approved by high-ranking gang members  
6 who were calling the shots at the time: Billy  
7 Garcia, Marty Barros, and Phillip Cordova.

8           Q.     After you were brought into the SNM  
9 enterprise, what did you do for Phillip Cordova?

10          A.     I participated in daily SNM activity,  
11 which included distributing drugs, collecting  
12 payment, assaults, and eventually stabbing.

13          Q.     And why did you collect drug money for  
14 Phillip Cordova?

15          A.     Because that was one thing that was  
16 expected of you as an SNM Gang member.

17          Q.     How did you earn your bones or gain your  
18 membership into the SNM?

19          A.     Well, in the beginning, just taking part  
20 as a tag-along, collecting drug debts, assaults, was  
21 enough for the time being. But eventually I ended  
22 up having to stab a couple people.

23          Q.     Did you stab someone named Chaparro?

24          A.     Yes, sir.

25          Q.     What happened?

1           A.     I was called to the chow area, and at the  
2 table was Phil Cordova and Marty Barros and Albert  
3 Chavez, which were, again, high-ranking members of  
4 the SNM. They advised me that there was an  
5 individual by the name of Chaparro that lived with  
6 me, that he came out short on some drugs that he had  
7 brought in for Phillip.

8           Q.     What does "came out short on drugs he  
9 brought in" mean?

10          A.     Well, the amount wasn't what it was  
11 supposed to be when it got to Phillip Cordova. In  
12 other words, he got into the package. He asked  
13 me -- he was specific about if I would be willing to  
14 stab him in the neck and remove him from the line,  
15 making an example out of him.

16          Q.     Who asked you if you would stab Chaparro  
17 in the neck?

18          A.     Phillip Cordova.

19          Q.     And did you stab Chaparro?

20          A.     Yes, sir.

21          Q.     Where did you stab him?

22          A.     In the neck.

23          Q.     And where did this take place?

24          A.     This took place in cell block 3.

25          Q.     In 1992, did you commit an SNM hit?

1           A.     I'm not sure about what happened in 1992.  
2     But the next hit that I participated in was on an  
3     inmate by the name of Eddie Lopez.

4           Q.     And when did that happen?

5           A.     I'm not sure what year it was, but --

6           Q.     Could it have been around 1992?

7           A.     Yes, sir.

8           Q.     And what happened with Eddie Lopez?

9           A.     He had gotten to the facility. And again,  
10    I was advised by Phillip Cordova simply that he was  
11    no good, and that if I could remove him from the  
12    line.

13          Q.     When you joined the SNM, what was the  
14    leadership structure of the SNM?

15          A.     The leadership structure of the S was, at  
16    the top, it was Billy Cordova, Marty Barros, and  
17    Phillip Cordova.

18          Q.     Did that structure of the SNM change at  
19    some point?

20          A.     At some point, yes, it did change. I  
21    mean, they were always around. They never lost  
22    their rank. But as they left, or some others were  
23    transferred out of state, it did change.

24          Q.     Did you hold the keys or were you the  
25    leader for the SNM at any point?

1 A. Yes, sir.

2 Q. When was that?

3 A. That was approximately 1998. There was an  
4 individual by the name of Angel Munoz, who was a  
5 high-ranking member of the SNM. He had just came in  
6 from out of state. He was about to get out, and he  
7 gave me a spot.

8 Q. What do you mean, he was about to get out?

9 A. He was about to get out to the streets,  
10 and --

11 Q. So was he the leader of the SNM before he  
12 went out to the streets?

13 A. Yes.

14 Q. And when he went out to the streets, what  
15 did he give to you?

16 A. He gave me his spot in the SNM.

17 Q. As the leader -- did he give you a  
18 leadership position of the SNM at that point?

19 A. Yes, sir.

20 Q. And what did you do -- what structure did  
21 you create as the leader of the SNM around that  
22 time?

23 A. I created a four-man board which consisted  
24 of five individuals to make the decisions for the S.

25 Q. Is that board also called the tabla?



1 A. Yes, sir.

2 Q. Who were the individuals on the tabla,  
3 that you appointed to the tabla?

4 A. The five members were myself, Juan Mendez,  
5 Rupert Michael Zamora, Robert Martinez, and Arturo  
6 Garcia.

7 Q. And why did you put in place the structure  
8 of the tabla?

9 A. So that there would be a group of  
10 individuals; not only one person calling the shots  
11 for the S, but a group of individuals that were able  
12 to make decisions for the S.

13 Q. Below the tabla, what was the leadership  
14 structure?

15 A. There was no leadership structure below  
16 the tabla.

17 Q. Were there certain people at each  
18 different facility throughout the state who led that  
19 facility and reported to the tabla?

20 A. Yes, sir.

21 Q. Would you call them -- or does the SNM  
22 call them key holders, or llaveros?

23 A. Yes, sir.

24 Q. How long did you stay on or control the  
25 tabla after it was formed?

1 A. Until approximately 2011, when I was  
2 released to the streets.

3 Q. Do you know the individual named Anthony  
4 Ray Baca?

5 A. Yes, sir.

6 Q. How do you know Mr. Baca?

7 A. I know him as a high-ranking member of the  
8 S, and was someone that was always my superior if he  
9 was around.

10 Q. So what do you mean, your superior if he  
11 was around?

12 A. This was an individual that had been  
13 around a while, and he was always someone that  
14 carried more rank than I did.

15 Q. If he was in the state, would he be the  
16 leader of the SNM over you?

17 A. Yes, sir.

18 Q. What do you refer to that person as in the  
19 SNM, your leader or someone above you in rank? What  
20 do you refer to them as?

21 A. He's our jefe, our boss.

22 Q. Do you also refer to him as your Big  
23 Homie?

24 A. As my Big Homie, yes, sir.

25 Q. Is Mr. Baca, the leader -- is he in this

1 courtroom?

2 A. I can't see him. Where are the defendants  
3 seated at?

4 Q. These four tables here, each have one  
5 defendant.

6 A. I don't see him. I don't see him.

7 Q. Do you see him in a suit at the back table  
8 behind my right?

9 MR. LOWRY: Your Honor, objection.

10 THE COURT: Sustained. Sustained.

11 A. I cannot see Ray Baca.

12 BY MR. BECK:

13 Q. Okay. At some point, did the SNM come in  
14 to different people following different older  
15 members in the SNM?

16 A. Can you repeat the question?

17 Q. At some point did the SNM come in to serve  
18 an organization where different members followed  
19 different high-ranking members?

20 A. At some point -- I don't understand the  
21 question.

22 Q. Sure. At some point, were there some  
23 people who followed maybe you more than maybe  
24 someone like Billy Garcia or Julian Romero?

25 A. Yes, sir.

1 Q. And how did that come about?

2 A. Well, once Angel gave me my position,  
3 everybody that looked up to Angel automatically  
4 followed me as their leader. Each older  
5 high-ranking member of the S, including Julian  
6 Romero and Billy, basically had their own following.

7 Q. And even though they had their own  
8 following, was there always just one SNM Gang?

9 A. Yes. Each of us had our own following,  
10 but if a problem ever came up with rival gangs, we  
11 would all come together to be one.

12 Q. What rival gangs did the SNM have?

13 A. One such gang was the Los Carnales, which  
14 are the LCs; the Surenos, who are from California;  
15 and the Burquenos, who are from Albuquerque.

16 Q. And if an SNM member, before 2006 -- if an  
17 SNM member was housed with or encountered someone  
18 from the Los Carnales gang, what was he expected to  
19 do under the rules of the SNM?

20 A. He was expected to assault him on sight as  
21 soon as he seen him.

22 Q. At some point did that change?

23 A. Yes, sir.

24 Q. What happened?

25 A. A truce was discussed among the brothers,

1 and that's what happened.

2 Q. And were you involved in the discussion to  
3 call the truce with the Los Carnales gang?

4 A. Yes, sir.

5 Q. How were you involved in that?

6 A. I was involved because I was in the tabla.  
7 It was discussed in the tabla and with other members  
8 of the SNM.

9 Q. I want to talk about the rules of the SNM.  
10 What are some of the requirements for membership to  
11 become a member of the SNM?

12 A. You can't be having child sex crimes; you  
13 can't be a rapist; you can't be a rat, an informer.

14 Q. And how long is membership in the SNM?

15 A. It's for the rest of your life or until  
16 you get killed.

17 Q. When did you leave the New Mexico  
18 Department of Corrections?

19 A. I left in 2011.

20 Q. And when you left in 2011, who did you  
21 appoint to take your place on the tabla?

22 A. Arturo Garcia.

23 Q. Who else was on the tabla at that time?

24 A. Robert Martinez, Michael Rupert Zamora,  
25 Juan Mendez.

1 Q. And if Mr. Baca was in the state, what was  
2 his position in the SNM?

3 A. The tabla would automatically be resolved  
4 unless he preferred to keep it in place. But he  
5 would be the one to make them decisions.

6 Q. And does Mr. Baca go by any other names?

7 A. Mr. Baca goes by the name of Pup.

8 Q. Does the SNM have any particular symbol  
9 that identifies the SNM?

10 A. Usually it's a Zia with the S in the  
11 middle of it.

12 Q. I think we talked about divisions in the  
13 SNM Gang, but one SNM Gang. If there was -- at some  
14 point, was the SNM going against the Aryan  
15 Brotherhood gang in prison?

16 A. Yes, sir.

17 Q. And did you call hits or participate in  
18 hits against Aryan Brotherhood members?

19 A. Yes, sir.

20 Q. If at that time, when there were different  
21 groups following, if there was a battle with the  
22 Aryan Brotherhood or another prison gang, would the  
23 SNM come together and fight as one gang?

24 A. Yes, sir.

25 Q. When an SNM member gets out of prison and

1 hits the streets, what is that SNM member expected  
2 to do?

3 A. He's expected to keep in touch with the S,  
4 send money to brothers, and to assist in any way he  
5 can.

6 Q. Does the SNM do anything with drugs on the  
7 streets when they get out of prison?

8 A. Yes. They sell drugs.

9 Q. And what do they do with some of that  
10 money?

11 A. They send it to the brothers in prison.

12 Q. Have you ever sent money to your SNM  
13 brothers in prison?

14 A. Yes, sir.

15 Q. To whom?

16 A. To Fernie Hernandez.

17 Q. Have you ever been fronted drugs, when you  
18 got out on the streets, to sell outside of prison?

19 A. Yes, sir.

20 Q. By whom?

21 A. By a brother named Chris Garcia.

22 Q. Did the SNM control violence inside the  
23 prison?

24 A. Yes, sir.

25 Q. How?

1 A. Through fear and intimidation.

2 Q. I want to talk to you about drugs inside  
3 the prison now. What happens when someone brings  
4 drugs inside the prison to a pod where there are SNM  
5 members?

6 A. They are expected to give a portion to the  
7 SNM.

8 Q. And if that person is not an SNM member  
9 and he doesn't give a portion to the SNM, what  
10 happens?

11 A. He would be assaulted and the drugs would  
12 be taken from him.

13 Q. If that person is an SNM member and brings  
14 drug into the prison, what does that SNM member do  
15 with the drugs?

16 A. He helps out his brothers, and it's  
17 distributed to sell to make money for his fellow  
18 brothers.

19 Q. Have you ever smuggled drugs into the  
20 prison?

21 A. Yes, sir.

22 Q. And how did you do it?

23 A. Through visits.

24 Q. And what did you smuggle in through the  
25 visits?



1 A. Heroin.

2 Q. And when you say "visits," do you mean  
3 family visits or contact visits where someone who  
4 you know visits you at the prison?

5 A. At the main facility, my wife has come to  
6 see me, there are contact visits, and my visitors  
7 bringing me drugs.

8 Q. Have you ever seen an SNM member brag  
9 about something that he didn't do?

10 A. No.

11 Q. And have you ever seen an SNM member brag  
12 about an assault or a murder that he didn't do?

13 A. No, not to my knowledge.

14 Q. And what would happen if someone does  
15 that?

16 A. There would be consequences.

17 Q. And how would the SNM know whether that  
18 person actually participated in the assault or the  
19 murder?

20 A. Well, among the brothers it's common  
21 knowledge who did what and when. And so for a  
22 brother to claim responsibility for an incident that  
23 he was involved in, or so-called involved in, it  
24 would immediately be detected by other brothers.

25 Q. So common knowledge, is that learned

1 through what we've heard talked to as prison talk  
2 out in the yard?

3 A. Either that, or just being in prison, yes.

4 Q. Mr. Archuleta, at this time I'm going to  
5 show you some documents from your penitentiary pack.  
6 I'm going to start at pages 20 and 21 of that  
7 document, Exhibit 246. Page 20 is Bates No. 8881.

8 Mr. Archuleta, are you familiar with this  
9 document?

10 A. Yes, sir, I'm familiar with it.

11 Q. What is it?

12 A. It's an agreement. It's in regards to an  
13 involuntary manslaughter charge that I picked up in  
14 1986.

15 Q. Is this your judgment, sentence, and  
16 commitment when you were sentenced for involuntary  
17 manslaughter in 1986 -- or 1987, sorry?

18 A. Yes, sir.

19 Q. And the next page, please. And were you  
20 sentenced to two and a half years for the  
21 involuntary manslaughter?

22 A. Yes, sir.

23 Q. What happened? Why were you convicted of  
24 involuntary manslaughter?

25 A. Well, it started off, I had been drinking

1 with my uncle and he got into a confrontation with  
2 three other individuals. After the confrontation,  
3 these individuals were next door in a garage  
4 carport, and I went inside and got a sawed-off  
5 shotgun and shot at them, wounding them with  
6 pellets.

7 From there, I ran to my uncle's house,  
8 which was close by, to hide because the police were  
9 everywhere. One of my cousins came in the house and  
10 said that he thinks I killed somebody.

11 Q. And what happened after your cousin said  
12 he thought you killed somebody?

13 A. I was stressed out. At that time I, for  
14 whatever reason, I raised -- I put the gun to my  
15 head and said, "I should kill myself."

16 My cousin said, "No, don't do it."

17 At that time, I lowered the weapon. As I  
18 did so, I pulled the trigger with my hand on the  
19 hammer to release the hammer. When the motion was  
20 complete, the gun went off. It flew out of my hand.  
21 And after my ears stopped ringing, my cousin advised  
22 me that I had hit my cousin. During this  
23 conversation, there was a cousin sitting to the side  
24 that had nothing to do with the conversation itself,  
25 and he was hit in the neck.

1 Q. And did your cousin die after that?

2 A. Yes, sir. He died as a result of that.

3 Q. I'm going to show you an order, sentence,  
4 and commitment from 1987, which starts at Bates  
5 8879. Was your probation revoked in 1985, because  
6 of a robbery -- or excuse me, in 1987, because of a  
7 robbery?

8 A. Yes, sir.

9 Q. And were you sentenced to three years  
10 concurrent with the time you were serving at that  
11 time?

12 A. Yes, sir.

13 Q. I'm going to show you a J&S from 1988  
14 which starts on Bates 8876. Are you familiar with  
15 this J&S?

16 A. Yes, sir.

17 Q. Go to the next page, please. In 1988,  
18 were you convicted of second-degree murder with  
19 aggravating circumstances?

20 A. Yes, sir.

21 Q. Were you sentenced to 12 years, plus four  
22 years for being a habitual offender, for a total of  
23 16 years?

24 A. Yes, sir.

25 Q. And why were you convicted of

1 second-degree murder with aggravating circumstances  
2 in 1988?

3 A. For killing my wife.

4 Q. What happened?

5 A. She got pregnant from another man. I was  
6 19. And I killed her.

7 Q. And how did you kill her?

8 A. I strangled her.

9 Q. What did you do after you strangled her?

10 A. I left the house and reported it.

11 Q. I'm going to show you a J&S from 2002,  
12 which begins on Bates 8874. In 2002, did you plead  
13 guilty to conspiracy to commit second-degree  
14 murder -- or no contest, sorry?

15 A. Yes, sir.

16 Q. And for that no-contest plea to conspiracy  
17 to commit second-degree murder, were you sentenced  
18 to six years, plus four years as a habitual  
19 offender, with six years suspended, for a total of  
20 four years?

21 A. Yes, sir.

22 Q. And why were you convicted of conspiracy  
23 to commit second-degree murder in 2002?

24 A. I took part in an SNM hit on another SNM  
25 member that had paperwork on him. He had been

1 greenlighted, which means that he was to be executed  
2 because he was an informant.

3 Q. And the person killed, was he an SNM  
4 member?

5 A. Yes, sir.

6 Q. And did you take part in -- participate in  
7 that or in ordering that hit?

8 A. Ordering it and planning it.

9 Q. And I'm going to go to a J&S from 2005.  
10 In 2005, was your probation for that conspiracy to  
11 commit second-degree murder revoked for possessing  
12 or selling heroin? Or for purchasing, selling,  
13 consuming possessing or distributing a controlled  
14 substance?

15 A. Yes, sir. It was a dirty urine.

16 Q. And when your probation was revoked, were  
17 you then imposed the total 10-year sentence for your  
18 conspiracy to commit second-degree murder in 2002?  
19 The total 10 years?

20 A. Yes, sir, I believe.

21 Q. I'm going to show you another J&S from  
22 2005. Was your probation for that conspiracy to  
23 commit second-degree murder later revoked again for  
24 a failure to abide by your curfew?

25 A. Yes, sir.

1 Q. And what happened? Why did you fail to  
2 abide by your curfew?

3 A. I had paroled to a program, and I didn't  
4 make it home on time. I didn't make it to that  
5 program on time. My curfew was 6:00, and I didn't  
6 make it at 6:00.

7 Q. And at that point, was your probation  
8 revoked and you were sentenced to prison for the  
9 remaining 730 days on your 10-year sentence for  
10 conspiracy to commit second-degree murder?

11 A. Yes, sir.

12 Q. I'm going to take you to a J&S from 2008.  
13 It starts at Bates 8865. In 2008, were you  
14 convicted of conspiracy to commit assault with  
15 deadly weapon, possession of a firearm, and breaking  
16 and entering?

17 A. Yes, sir.

18 Q. For that crime, were you sentenced to 18  
19 months plus four years as a habitual offender for  
20 each count?

21 A. Yes, sir.

22 Q. Were you given an actual term of seven  
23 years in prison?

24 A. Yes, sir.

25 Q. And is it after that seven years in prison

1 that you were released from the Corrections  
2 Department in 2011?

3 A. Yes, sir.

4 Q. And why were you convicted of conspiracy  
5 to commit assault with a deadly weapon, possession  
6 of a firearm, and breaking and entering in 2008?

7 A. Well, there was a confrontation at the  
8 methadone clinic in 2006. There had apparently been  
9 a hit placed on me by other SNM Gang members. As a  
10 result, it ended in a shooting. I mean, we each had  
11 guns, and I shot him, and we shot at each other.

12 Q. Where did you shoot at each other? Where  
13 were you?

14 A. In the parking lot of the methadone  
15 clinic, San Mateo.

16 Q. Is that San Mateo Road in Albuquerque?

17 A. Yes, sir.

18 Q. Were you charged by the federal government  
19 in an indictment in this case?

20 A. Yes, sir.

21 Q. And at some point did you agree to  
22 cooperate with the federal government?

23 A. Yes, sir.

24 Q. Why did you agree to cooperate with the  
25 federal government?



1           A.     Five years prior, when I got out, 2011, I  
2     had already distanced myself from the S, because I  
3     basically wanted something better for myself and for  
4     my son. What was the question again?

5           Q.     I think that answered it. That's fine.  
6     What do you mean? Where did you go to distance  
7     yourself from the S?

8           A.     I went to Tennessee.

9           Q.     And did you still keep in contact with  
10    other SNM members after 2011, before you were  
11    arrested in this case in 2015?

12          A.     Yes, sir.

13          Q.     Did other SNM members send you Suboxone  
14    while you were in Tennessee?

15          A.     Yes, sir.

16          Q.     I'm going to show you what's been admitted  
17    as Government's Exhibit 690. Are you familiar with  
18    this document?

19          A.     Yes, sir.

20          Q.     Is this your plea agreement in this  
21    federal case?

22          A.     Yes, sir.

23          Q.     And were you indicted based on the assault  
24    of Julian Romero in this case?

25          A.     Yes.

1 Q. I'm going to take you to page 2 of this  
2 document, paragraph 4 -- actually, paragraphs 3 and  
3 4.

4 A. Okay.

5 Q. So on paragraph 3, does that advise you  
6 that you were agreeing to plead guilty to count 8 of  
7 the indictment, charging you with violent crimes in  
8 aid of racketeering activity, conspiracy to commit  
9 assault resulting in serious bodily injury?

10 A. Yes.

11 Q. And was that because of the assault  
12 resulting in serious bodily injury of Julian Romero?

13 A. Yes.

14 Q. And does paragraph 4 advise you that the  
15 maximum term of imprisonment for this charge is  
16 imprisonment of not more than three years?

17 A. Yes.

18 Q. Then I'll take you to page 9 of that  
19 document. Is that your signature on the plea  
20 agreement?

21 A. Yes, it is.

22 Q. And now I'll show you what's been admitted  
23 as Government's Exhibit 691, and I'll go to page 2.  
24 Is that your signature: Gerald Archuleta?

25 A. Yes, it is.

1 Q. And do you also go by or have you also  
2 been referred to by the names Styx and Grandma?

3 A. Yes, sir.

4 Q. And I'll go back to page 1. Is this the  
5 addendum to your plea agreement?

6 A. Yes, it is.

7 Q. Thank you.

8 Since you've been a cooperator, have you  
9 been paid money by the federal government?

10 A. Yes, I have.

11 Q. And what is that -- how is that money paid  
12 to you?

13 A. It's put on my account.

14 Q. And since you began cooperating in July --  
15 or December of 2015, when you were indicted, do you  
16 know how much you've been paid in the last over two  
17 years?

18 A. Approximately 2,000 bucks.

19 Q. Does \$2,399.62 sound right?

20 A. Yes, sir.

21 Q. As part of your cooperation in this case,  
22 did you agree to record other inmates in the prison  
23 system?

24 A. Yes, sir.

25 Q. Were you also given less restrictions than

1 other inmates housed in a Level 6 facility while you  
2 were cooperating?

3 A. Will you repeat the question?

4 Q. While you've been cooperating, were you  
5 also provided less restrictions than other inmates  
6 in a Level 6 facility?

7 A. No.

8 Q. In the course of this case, were you  
9 provided a tablet to review your discovery?

10 A. Yes, I was.

11 Q. And at some point, was that tablet taken  
12 away?

13 A. Yes, it was.

14 Q. Why was it taken away?

15 A. Several of the cooperators, including  
16 myself -- we reset our tablet, which erased the  
17 discovery. We enabled the Wi-Fi, and we were able  
18 to have internet access.

19 Q. Were you allowed to have internet access  
20 on your tablet?

21 A. No, sir.

22 Q. And what did you use the -- how long did  
23 you have internet access on your tablet,  
24 approximately?

25 A. Approximately four months.

1 Q. And what did you do with your tablet when  
2 you connected to the Wi-Fi?

3 A. I attempted -- one time I attempted to get  
4 hold of my son, sending him pictures that were taken  
5 of me. And for the most part I was downloading  
6 pornography.

7 Q. While you've been cooperating, have you  
8 done drugs in the prison?

9 A. Yes, sir.

10 Q. What drugs have you done?

11 A. Suboxone.

12 Q. And how did you obtain the Suboxone?

13 A. I obtained it from those that were living  
14 with me in the unit.

15 Q. And who is that?

16 A. For the most part, it was fellow  
17 cooperators, Benjamin Clark, Jerry Montoya.

18 Q. And are you still using Suboxone in the  
19 prison?

20 A. No.

21 Q. When did that stop?

22 A. Well, while I was in Sandoval County, I  
23 got high for Christmas, and that's been the last  
24 time I got high.

25 Q. So is that Christmas December 2017, the

1 last Christmas?

2 A. Yes, sir.

3 Q. I want to talk to you about Julian Romero.

4 Who is Julian Romero?

5 A. Julian was a high-ranking member of the  
6 SNM. He was another one of my big homies.

7 Q. At some point did you call a green light  
8 or authorize a hit on Julian Romero?

9 A. Yes, I did.

10 Q. When was that?

11 A. It was approximately 2001, maybe around  
12 there.

13 Q. And why did you order or authorize a hit  
14 on Julian Romero in 2001?

15 A. For having an affair with my wife.

16 Q. Do you know, did you used to communicate  
17 with Julian Romero through your wife?

18 A. Yes, sir. That was -- we used our wives  
19 and our visitors to communicate amongst each other,  
20 specifically with the brothers that were on the  
21 street. We would give the message to our visitor,  
22 or in my case, to my wife, and she would take it to  
23 the streets and pass on the message.

24 Q. Included in those messages, did you and  
25 Julian authorize SNM hits on people?

1 A. Yes, we did, on one occasion.

2 Q. And who did you task with hitting Julian  
3 Romero originally?

4 A. Originally, I tasked Playboy Munoz.

5 Q. Is that Frederico Munoz?

6 A. Yes, sir, Frederico Munoz.

7 Q. And what happened when you tasked him to  
8 hit Julian Romero?

9 A. The end result was he located him and shot  
10 him.

11 Q. And do you know where Frederico Munoz shot  
12 Julian Romero, where they were located when it  
13 happened?

14 A. He shot him in the leg.

15 Q. And what happened after Frederico Munoz  
16 shot Julian Romero? Was the green light done, or  
17 did it still remain?

18 A. No, it still remained.

19 Q. Why?

20 A. Because they missed him and the end result  
21 was to kill him.

22 Q. At some point, was Julian Romero assaulted  
23 at some point after 2003?

24 A. Yes, sir.

25 Q. And how do you know that?

1           A.     I was made aware of this through phone  
2 conversation with another brother by the name of  
3 Chris Garcia while I was in Tennessee. I used to  
4 communicate with Chris Garcia on a few occasions,  
5 more than once, and he advised me that an assault  
6 had been -- that an assault happened on Julian  
7 Romero.

8           Q.     Was this one of the conversations you had  
9 with SNM members while you were in Tennessee after  
10 you got out?

11          A.     Yes.

12          Q.     Did another inmate call you while you were  
13 in Tennessee and advise you that Julian Romero was  
14 assaulted, if you remember?

15          A.     I don't recall. I specifically remember  
16 Chris Garcia calling me.

17          Q.     And did anyone tell you about the Julian  
18 Romero assault while you were incarcerated, after  
19 2011 and 2015 or '16?

20          A.     Yes.

21          Q.     Who was that?

22          A.     Carlos Herrera.

23          Q.     Do you know an SNM member Daniel Sanchez?

24          A.     Yes, I do.

25          Q.     And what other name does Daniel Sanchez go



1 by?

2 A. Dan Dan.

3 Q. And I'm going to test your eyesight here.  
4 Do you see Daniel Sanchez, or Dan Dan, here in the  
5 room?

6 A. Yes, I do.

7 Q. Where is he?

8 A. He's sitting over there in the blue suit.

9 MR. BECK: Let the record reflect he  
10 pointed out the Defendant Daniel Sanchez.

11 THE COURT: The record will so reflect.

12 BY MR. BECK:

13 Q. Is Daniel Sanchez an SNM member?

14 A. Yes, he is.

15 Q. How do you know that?

16 A. We've had several conversations that have  
17 to do with SNM activity. He's known to me as an SNM  
18 Gang member. These are conversations that wouldn't  
19 have took place with him to begin with if he wasn't  
20 an SNM Gang member.

21 Q. And I think you said earlier you talked to  
22 Carlos Herrera. Is Carlos Herrera an SNM member?

23 A. Yes, he is.

24 Q. Does he go by another name other than  
25 Carlos Herrera?

1 A. Yes, he goes by the name of Lazy.

2 Q. Have you been locked up with Carlos  
3 Herrera before?

4 A. Yes, I have.

5 Q. And do you know that Carlos Herrera is an  
6 SNM Gang member?

7 A. Yes, I do.

8 Q. Have you heard of, within the SNM, the All  
9 Stars?

10 A. Yes, I have.

11 Q. What are the All Stars?

12 A. The All Stars are a group of, I would say,  
13 SNM Gang members that have been stabbed in the past  
14 by other SNM Gang members. That's who they were.

15 Q. You said they'd been stabbed in the past.  
16 Did you call hits on the SNM members who were trying  
17 to start the All Stars?

18 A. I took part in a couple of hits against  
19 members of the All Stars.

20 Q. Was Leroy Torrez one of the members trying  
21 to start the SNM All Stars?

22 A. Yes, he was.

23 Q. Did you call a hit on Leroy Torrez?

24 A. Yes, I did.

25 Q. Did you call a hit on an SNM member named

1 Chaparro?

2 A. Yes, I did.

3 Q. Was he involved with the SNM All Stars?

4 A. Yes, he was.

5 Q. I want to talk to you about some other SNM  
6 crimes that you've been involved with. In 1992,  
7 1993, did you assault someone at the Southern New  
8 Mexico Correctional Facility related to the SNM, if  
9 you remember?

10 A. I did assault somebody at the Southern  
11 facility.

12 Q. And how is that related to the SNM?

13 A. Only that we were SNM, and the one that  
14 was with me at the time of assault was also SNM.

15 Q. And in the late '90s, early 2000s, did you  
16 assault two Aryan Brotherhood members related to the  
17 SNM?

18 A. What year was this, and what facility?

19 Q. Late '90s, early 2000s, did you assault  
20 two Aryan Brotherhood members with Wino and Alex  
21 Munoz and Funny Style?

22 A. Yes. Yes, sir. I took part on the  
23 assault on these two Aryan Brotherhoods.

24 Q. And how is that related to the SNM?

25 A. Approximately -- again, I could be wrong

1 on the year. But a war had started with the Aryan  
2 Brotherhood. It started with the Aryan Brotherhood  
3 assaulting two SNM Gang members. So from that day  
4 forward, there was a green light on every Aryan  
5 Brotherhood that we came across.

6 Q. Is this the same way that there was a  
7 green light on Los Carnales members at some point?

8 A. Yes, sir.

9 Q. What is the Aryan Brotherhood?

10 A. It's a white gang with -- yeah, it's a  
11 white gang.

12 Q. At some point related to the SNM, did you  
13 call a hit on Junior when the Main shut down?

14 A. Yes, I did.

15 Q. What happened?

16 A. Well, when I got to the South facility,  
17 there were several brothers that weren't happy with  
18 the way he was treating them. We asked him to step  
19 down. He didn't want to step down, and we removed  
20 him. When I got to the South, he was the one  
21 holding the keys at the South facility. He didn't  
22 want to step down, so we removed him, with approval  
23 from Marty Barros.

24 Q. So you and other SNM members removed, by  
25 assaulting, the SNM member who held the keys at the

1 South facility? Is that what you're saying?

2 A. Yes. I was not there at the time he got  
3 assaulted, but I put it together, yes.

4 Q. You called that hit?

5 A. Yes, sir.

6 Q. And after the incident with Junior at the  
7 South facility, were you involved in targeting two  
8 Aryan Brotherhood members, including Pac Man?

9 A. Yes, I was.

10 Q. What happened?

11 A. These were Aryan Brotherhood members that  
12 were at the Main facility when the initial war  
13 started. When they closed down the Main, they were  
14 all separated. And these are two individuals that  
15 we came across at the South facility, so they were  
16 assaulted.

17 Q. And were they assaulted because of this  
18 rivalry with the SNM and Aryan Brotherhood?

19 A. Yes, they were.

20 Q. When you were sent to Hobbs around 1998,  
21 did you call the hit of two other Aryan Brotherhood  
22 members?

23 A. Yes, I did.

24 Q. What happened?

25 A. Again, these were two Aryan Brotherhood

1 members that were at the South. They were at the  
2 Main facility when the war started with them, and  
3 they were assaulted.

4 Q. Do you know how they were assaulted?

5 A. They were stabbed and beaten.

6 Q. In 2000, did you call a hit in BCDC?

7 A. Yes, I did.

8 Q. Is that the Bernalillo County Detention  
9 Center?

10 A. Yes, it is.

11 Q. And what happened in 2000 in the  
12 Bernalillo County Detention Center?

13 A. Matthew Cavalier, a former SNM Gang member  
14 who was an informant, was killed.

15 Q. And how were you involved?

16 A. I put it together and I ordered it.

17 Q. And was Matthew Cavalier killed?

18 A. He had informed on an SNM murder that took  
19 place in Central New Mexico Correctional Facility.  
20 Papers had turned up on him, and so he was a known  
21 SNM informant.

22 Q. You said "informed." Did he talk to law  
23 enforcement?

24 A. Yes, he did an investigation.

25 Q. And by "papers," did you mean that there

1 had been actual paperwork in the prison showing that  
2 he had cooperated with the investigation?

3 A. Yes, documents of his actual conversation  
4 with authorities.

5 Q. And is that why you ordered his death?

6 A. Yes, that's why.

7 Q. And in connection with calling that  
8 murder, is that why you pled guilty to conspiracy to  
9 commit second-degree murder?

10 A. Yes.

11 Q. After that did you call a hit on Kelly  
12 Mercer?

13 A. Yes, I did.

14 Q. What happened?

15 A. He was one of the ones that was -- he's a  
16 fellow SNM Gang member. He was informing on --  
17 assisting with the investigation on the Matthew  
18 Cavalier case, and we placed a hit on him.

19 Q. Did you place this hit on him because you  
20 expected him to testify at trial?

21 A. Yes, I did.

22 Q. Sometime later did you call a hit on Baby  
23 Zack?

24 A. Yes, I did.

25 Q. What happened?

1           A.     Well, this is Billy Garcia's nephew.  
2     There was a division among the S, because of the  
3     incident with Julian Romero and my wife. Julian  
4     Romero was a Big Homie, so he had a following.  
5     Basically, Baby Zack was sent to kill me at the  
6     methadone clinic.

7           Q.     Is that who you exchanged fire with at the  
8     methadone clinic, when you pled guilty to, among  
9     other things, being in possession of a firearm?

10          A.     Yes.

11          Q.     And did you call this hit on him after he  
12     tried to kill you at the methadone clinic?

13          A.     Yes, I did.

14          Q.     Did you at any point order a hit on Darren  
15     White?

16          A.     No, I didn't.

17          Q.     Who is Darren White?

18          A.     Darren White is the elected Sheriff of  
19     Bernalillo County.

20          Q.     And how did you know of Darren White?

21          A.     I knew of Darren White because he was very  
22     political. And at one point he had tried to get a  
23     law passed through the legislature claiming that New  
24     Mexico needed to get tough on their violent  
25     offenders, their repeat offenders. So he started



1 using my name and my picture to support his  
2 three-strikes bill.

3 Q. And did he use your name because of your  
4 conviction for involuntary manslaughter of your  
5 cousin, for the murder of your wife, and for  
6 ordering the murder of Matthew Cavalier?

7 A. Yes.

8 Q. And how did that strike you, that he was  
9 using you as the poster child for this?

10 A. Well, they put my name out there and made  
11 me look, like, bigger in the limelight. I didn't  
12 mind. When you're in that lifestyle, you want  
13 people to think that you can call a hit on a  
14 sheriff.

15 Q. So at the time that this was happening,  
16 did you actually like that he was using you as a  
17 poster boy?

18 A. Yes.

19 MR. BECK: Your Honor, if we're going to  
20 take a later lunch, might this be a good time for a  
21 break?

22 THE COURT: All right. We'll be in recess  
23 for about 15 minutes and we will take a later lunch,  
24 like we have some days, all days this week.

25 (The jury left the courtroom.)

1 THE COURT: All right. So we'll be in  
2 recess for about 15 minutes.

3 (The Court was in recess.)

4 MR. BECK: We should probably get -- there  
5 is something I want to do outside the presence of  
6 the jury.

7 THE COURT: Okay. Go ahead. We'll go on  
8 the record.

9 MR. BECK: So a few days ago, when Mario  
10 Rodriguez was testifying, we talked about  
11 information that Mr. Archuleta may have --

12 MR. LOWRY: Your Honor, can we do this  
13 outside of the presence of the witness?

14 MR. BECK: Well, it's going to include his  
15 testimony.

16 THE COURT: Well, why don't y'all come up  
17 here and we'll do it at the bench.

18 (The following proceedings were held at  
19 the bench.)

20 MR. BECK: So yesterday -- not yesterday,  
21 but when Mario Rodriguez was here -- he has  
22 testimony about Pup's murder conviction, Mr. Baca's  
23 murder conviction. We said that we thought it  
24 better to wait until Mr. Archuleta testified to see  
25 what he has to say about Mr. Baca's murder

1 conviction. I received an email that I forwarded to  
2 counsel that day that says he has information about  
3 it.

4 THE COURT: Archuleta does?

5 MR. BECK: Yes. From what I think, based  
6 on conversations with his lawyer and our arguments,  
7 I believe that it may not be firsthand information  
8 that we get from him. But it is information that  
9 connects up to the SNM. And so because the Court  
10 for these preliminary determinations can rely on  
11 hearsay, if indeed it is hearsay, it's important to  
12 establish our record outside of the presence of the  
13 jury as to how Mr. Baca's murder conviction is  
14 related to the SNM.

15 THE COURT: Well, I guess we can hear it.  
16 I'm not quite convinced on this sort of stuff, but  
17 you know --

18 MR. LOWRY: Hear this outside the presence  
19 of the jury.

20 THE COURT: Yeah, I'm not quite convinced  
21 that I should be relying on inadmissible hearsay to  
22 establish that this is an SNM hit. If he's just  
23 getting that information from somebody else, I'm not  
24 sure it gives me a lot of confidence that I ought to  
25 be letting it in. But I'll hear what everybody has

1 to say.

2 MR. BECK: And I don't know exactly what  
3 he's going to say. That's why I think it's better  
4 to do it now.

5 MR. LOWRY: And before we have a  
6 completion of a 104 hearing on that kind of  
7 evidence, as Ms. Duncan represented, we've looked  
8 through the entire transcript. We talked to the  
9 original trial counsel, whose name is Candace  
10 Stevens. She ended up being a life-long prosecutor.  
11 We talked about this case. It was a death penalty  
12 case when it happened. It was robustly litigated,  
13 and the issue of gangs was never presented.

14 THE COURT: Let's let the Government make  
15 its presentation, now that y'all haven't found  
16 anything, but let's see what he has to say about it.  
17 Go ahead.

18 (The following proceedings were held in  
19 open court outside the presence of the jury.)

20 THE COURT: All right. Mr. Archuleta,  
21 I'll remind you that you're still under oath. Mr.  
22 Beck is going to ask you some questions, and you may  
23 get some questions from other people about a  
24 particular event.

25 Mr. Beck.

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104 HEARING

DIRECT EXAMINATION

BY MR. BECK:

Q. Mr. Archuleta, are you familiar with Mr. Baca's -- with the murder that Mr. Baca performed in the Main facility at PNM?

A. Yes, I am.

Q. And about when did that happen?

A. About 1990, around there.

Q. And where were you when it happened?

A. I was in the Main facility cell block 5.

Q. And where was Mr. Baca?

A. He was being housed in cell block 4.

Q. And who did Mr. Baca murder?

A. He murdered Luis Velasquez.

Q. And what happened the day before that murder?

A. There was a confrontation between Ray Baca and Jesse Chavez.

Q. And who is Ray Baca and who is Jesse Chavez?

A. These are known to me as big homies, the SNM Gang members. They had a drug dispute with two other individuals that were not SNM members by the name of Luis Velasquez and Gerald Alvarado.

1 Q. And so at this time --

2 MR. LOWRY: Objection, Your Honor. Can we  
3 get a foundation for the basis --

4 THE COURT: Well, since it's 104, I'll  
5 let -- I'm curious about some of this, too.

6 BY MR. BECK:

7 Q. And how did you know those -- sorry, who  
8 were the two SNM members?

9 A. Ray Baca and Jesse Chavez.

10 Q. And how did you know they were SNM Gang  
11 members?

12 A. They were my big homies. They were two  
13 individuals that, when I came to the facility and  
14 became a carnal, a brother, they shook my hand, gave  
15 me a hug and said, "Welcome to the family."

16 Q. And you said earlier -- just remind us,  
17 when did you become an SNM member?

18 A. Approximately 1988, '89, somewhere around  
19 there.

20 Q. So there was a drug dispute between Ray  
21 Baca and Jesse Chavez, and who were the other two?

22 A. Luis Velasquez and Gerald Alvarado.

23 Q. Are they SNM members?

24 A. No, they weren't.

25 Q. And what happened with that drug dispute?

1           A.     As a result of that, the confrontation and  
2 the disputes, Gerald Alvarado pulled out a weapon  
3 and stabbed Jesse Chavez.

4           Q.     All right. And how did you know Anthony  
5 Ray Baca at this time?

6           A.     He was a Big Homie of mine in the SNM.

7           Q.     So that was the day before. What happened  
8 the next day after this stabbing and drug dispute?

9           A.     It might have been the next day or a few  
10 days, but Luis Velasquez was retaliated on and  
11 killed.

12          Q.     And who retaliated on Luis Velasquez?

13          A.     Ray Baca and Robert Gutierrez.

14          Q.     And why do you say "retaliated"?

15          A.     Well, the day before, a brother was  
16 stabbed. Luis Velasquez was with the person who did  
17 the stabbing, so it was a form of retaliation. You  
18 stab one of us and we kill you.

19          Q.     Is that an SNM rule, that if an SNM member  
20 gets stabbed by someone else, then the SNM  
21 retaliates by either stabbing or killing that other  
22 person?

23          A.     Yes.

24          Q.     And if they can't get to that other  
25 person -- in this case, Alvarado; was Alvarado

1 segregated and locked up after --

2 A. Alvarado was segregated. Jesse Chavez was  
3 taken to the hospital. Ray Baca made it back to his  
4 unit. And Luis Velasquez made it back to his unit.

5 Q. And Ray Baca was with Jesse Chavez when he  
6 was stabbed by Gerald Alvarado; right?

7 A. Yes, sir.

8 Q. And so it was the next day or sometime  
9 immediately afterwards that Ray Baca then stabbed  
10 and killed Luis Velasquez; right?

11 A. Yes, sir.

12 Q. And is that why you say it was SNM  
13 retaliation?

14 A. Yes, sir; that and, if an incident takes  
15 place and it involves SNM Gang members from start to  
16 finish, it's SNM-related.

17 Q. Were you there when Mr. Baca stabbed Luis  
18 Velasquez and killed him?

19 A. I wasn't present during the killing, but I  
20 was in the facility, in cell block 5.

21 Q. And before this time, did you see Mr. Baca  
22 at the Main facility?

23 A. Yes, I did.

24 Q. And after this time, when he stabbed and  
25 killed Velasquez -- well, who did you learn about it



1 from first? I'll ask that question.

2 A. The murder?

3 Q. Right.

4 A. From a correctional officer during  
5 lockdown.

6 Q. After the murder, were you in cell block  
7 5? Were you locked down?

8 A. Yes, we were.

9 Q. At some point later did you see Mr. Baca?

10 A. Yes, I did.

11 Q. Where was that?

12 A. In Q pod at the North facility.

13 Q. And what is Q pod at the North facility?

14 A. It's a lockup facility. It's a pod, the Q  
15 pod. It houses, like, 12 inmates.

16 Q. Are those 12 inmates on any special  
17 conditions? That is a death row pod?

18 A. Yes, it was a death row pod.

19 Q. How close in time to when Mr. Velasquez  
20 was stabbed and killed was it when you saw Mr. Baca  
21 in Q pod?

22 A. It was during his trial, so I don't know  
23 exactly. Maybe a year or two.

24 Q. And did you know Mr. Baca was being tried  
25 for the murder of Luis Velasquez?

1 A. Yes, I did.

2 Q. How did you know that?

3 A. Because I was with him when he was going  
4 to trial. I was housed with him in the unit, and it  
5 was all over the news.

6 Q. Was Mr. Baca an SNM member after Jesse  
7 Chavez was stabbed and while -- when he killed Luis  
8 Velasquez?

9 A. Yes, he was an SNM member.

10 Q. And as an SNM member, does a murder help  
11 your reputation with the SNM?

12 A. Yes, it does.

13 Q. Does it help even more if it's a murder  
14 for the SNM or, as you said, a retaliation murder  
15 for the SNM?

16 A. Yes, it does.

17 Q. And in your opinion, did this murder --  
18 did it help make Mr. Baca your Big Homie or the  
19 leader of the SNM?

20 A. He was my Big Homie before the murder, but  
21 it increased his status after the murder.

22 Q. Did it increase his status with all the  
23 SNM?

24 A. Yes, it did.

25 Q. Is that a reason that he was the leader of

1 the entire SNM?

2 A. Yes, it was.

3 Q. Where did this murder happen?

4 A. It happened in the main corridor at the  
5 Main facility in front of cell block -- or  
6 approximately in front of the canteen area.

7 Q. And in the main corridor of the Main  
8 facility, is that right outside where the  
9 corrections officers are sitting in the control  
10 booth?

11 A. In that general area, yes.

12 Q. And given that the murder happened there  
13 in the main corridor, is that significant in any way  
14 to you and to the SNM?

15 A. Yes, it is.

16 Q. Why?

17 A. Because of the way he did it. He did it  
18 in front of everybody. And --

19 Q. Did that add to his reputation or  
20 credibility with the SNM?

21 A. I would say so, yes.

22 Q. Did that contribute to him being a leader  
23 of the entire SNM?

24 A. It contributed, yes.

25 MR. BECK: That's all I've got, Your

1 Honor.

2 THE COURT: All right. Thank you, Mr.

3 Beck.

4 Mr. Lowry, do you have cross-examination?

5 Why don't you just go ahead and tell the  
6 jury to go back and relax in the jury room.

7 Mr. Lowry.

8 MR. LOWRY: Thank you, Your Honor.

9 CROSS-EXAMINATION

10 BY MR. LOWRY:

11 Q. Good day, Mr. Archuleta.

12 A. Good day.

13 Q. So you weren't present when this happened,  
14 either event, the events the day before or the event  
15 that happened in the main corridor of the Old Main?

16 A. I was not present at the actual assault  
17 and murder site; correct.

18 Q. And you weren't present the day before,  
19 and I think -- let me get the names correctly  
20 again -- it was Mr. Baca -- who were the four  
21 individuals involved in the altercation?

22 A. Mr. Baca, Jesse Chavez, Gerald Alvarado,  
23 and Luis Velasquez.

24 Q. And neither Alvarado or Luis Velasquez  
25 were gang-affiliated at all?

1 A. No, sir.

2 Q. And do you know anything about Luis  
3 Velasquez' criminal history?

4 A. That he was a killer.

5 Q. He was a cold-blooded killer, wasn't he?

6 A. He had a murder conviction, so that's why  
7 I say that.

8 Q. All right. And he also was pretty  
9 notorious at the Old Main for raping people.

10 A. I didn't -- I wasn't aware of that.

11 Q. Okay. So you didn't have any idea that  
12 that --

13 A. Yeah, I -- I didn't have no idea.

14 Q. So you really didn't know much about Mr.  
15 Velasquez?

16 A. Correct.

17 Q. And you didn't overhear any part of the  
18 conversation that took place the day before between  
19 Mr. Velasquez and Mr. Baca?

20 A. No, I didn't.

21 Q. And you weren't aware that other people in  
22 the facility knew that Mr. Velasquez was trying to  
23 kill Mr. Baca?

24 A. I was not aware of that.

25 Q. Were you aware that other people thought

1 that Mr. Velasquez had a knife in his pocket to kill  
2 Mr. Baca at any time?

3 A. I have no knowledge of that. I was not  
4 aware.

5 Q. Let me step back for a second. It doesn't  
6 matter if you're gang-affiliated or if you're not.  
7 But when you're in prison, it's a different cultural  
8 environment, isn't it?

9 A. Yes, sir.

10 Q. Nobody can get punked out, can they?

11 A. No, sir.

12 Q. If you get punked, you're punked for  
13 forever?

14 A. Yes, sir.

15 Q. And so it's imperative, no matter who you  
16 are in the prison environment, to demonstrate you're  
17 not going to be punked out?

18 A. Yes, sir.

19 Q. And if somebody is going to try to kill  
20 you, you need to protect yourself?

21 A. I would say so, yes.

22 Q. By all means necessary?

23 A. Yes, sir.

24 Q. And if that's the case and you  
25 legitimately think somebody is trying to kill you,

1 you're going to settle that score?

2 A. I would think so.

3 Q. Now, you said a lot about what you thought  
4 about what transpired between the day before and  
5 when Mr. Baca got into the altercation with Mr.  
6 Velasquez.

7 A. Yes.

8 Q. But you don't have any firsthand knowledge  
9 of what transpired in either event?

10 A. No, only what brothers translated to me  
11 after the fact.

12 Q. Okay. And like any kind of rumor mill,  
13 brothers can be wrong?

14 A. They can be wrong, but it became obvious  
15 exactly what happened and why it happened over the  
16 years.

17 Q. What do you mean, it became obvious?

18 A. Well, starting from the first incident,  
19 where a brother got stabbed by another group of  
20 people, and Luis Velasquez was with him, it was  
21 automatic that he would be retaliated on, and that  
22 Luis would be targeted.

23 Q. But you just agreed with me that nobody,  
24 whether you're gang-affiliated or not, in the prison  
25 wants to be punked out.

1           A.     Right, but you can't deny that -- what led  
2 up to that murder, which was the assault on Jesse  
3 over drugs.

4           Q.     But you don't know that that was over  
5 drugs?

6           A.     Yes, I do.

7           Q.     How?

8           A.     I got -- other brothers told me that were  
9 there with him in cell block 4.

10          Q.     Okay. So you're relying again on other  
11 people's information to give you an opinion or an  
12 impression about what happened?

13          A.     Yes.

14          Q.     And you don't know that for a fact? It's  
15 gossip?

16          A.     I wouldn't say it was gossip. I would say  
17 it was the truth.

18          Q.     You would say it's hearsay?

19          A.     I wouldn't say it was hearsay.

20          Q.     Well, you didn't see it firsthand?

21          A.     You're right.

22          Q.     You heard it from somebody else?

23          A.     Yes.

24          Q.     Who heard it from somebody else?

25          A.     Not necessarily heard it from someone



1 else, but was there when the initial confrontation  
2 took place, when the drug dispute was created.

3 Q. What kind of drugs are we talking about?

4 A. Heroin.

5 Q. How much?

6 A. A lot. An ounce, maybe. I don't know  
7 exactly how much, but this individual had a lot of  
8 heroin.

9 Q. Who is this individual?

10 A. Dennis Trujillo.

11 Q. And who is Dennis Trujillo?

12 A. Dennis Trujillo is a brother that was  
13 housed with Ray Baca and Jesse Chavez in cell block  
14 4.

15 Q. So are you telling us now that this was a  
16 collection hit?

17 A. No, sir. I'm saying that when this all  
18 started, Gerald Alvarado was at the grill of cell  
19 block 4 trying to collect drugs from Dennis  
20 Trujillo. He didn't come away with any drugs, and  
21 that's what started the dispute. It was a  
22 confrontation over that in the yard -- I mean, in  
23 the corridor, and as a result, Gerald Alvarado  
24 stabbed Jesse Chavez.

25 Q. Over not scoring drugs?

1           A.     Over not -- basically not getting -- the  
2     issue that he thought he had coming from Dennis  
3     Trujillo. Dennis Trujillo was influenced, or he was  
4     there with Ray Baca and all the rest of the  
5     brothers. I mean -- okay.

6           Q.     But you don't know if they were there just  
7     to say, "We're going to take you out," and it might  
8     not have been drug-related at all.

9           A.     I know that it was drug-related.

10          Q.     You believe it was drug-related.

11          A.     Yes, I believe it was drug-related.

12          Q.     You don't know that it was drug-related.

13     So you don't know anything about Mr. Velasquez's  
14     background?

15          A.     I know that he was from Colorado and he  
16     had a murder conviction.

17                 MR. LOWRY: May I have a moment, Your  
18     Honor?

19                 THE COURT: You may.

20     BY MR. LOWRY:

21          Q.     Do you know who was with Mr. Baca --  
22     pardon me. Do you know who was with Mr. Baca the  
23     day Velasquez was murdered?

24          A.     Yes. Robert Gutierrez.

25          Q.     And he was acquitted, wasn't he?

1 A. Yes, he was.

2 Q. And you didn't speak to either of the  
3 other individuals in the altercation the day before:  
4 Mr. Alvarado or Mr. Chavez?

5 A. No.

6 Q. And you weren't there?

7 A. Right. I wasn't there.

8 MR. LOWRY: No further questions, Your  
9 Honor.

10 THE COURT: All right. Thank you,  
11 Mr. Lowry.

12 Does any other defendant have any  
13 questions they wish to ask Mr. Archuleta on this  
14 murder?

15 MR. VILLA: No, Your Honor.

16 THE COURT: All right. Mr. Beck.

17 REDIRECT EXAMINATION

18 BY MR. BECK:

19 Q. Mr. Archuleta, you mentioned Dennis  
20 Trujillo as being the one with the drugs. Was he an  
21 SNM member?

22 A. Yes, he was.

23 Q. And if this wasn't over drugs -- if, for  
24 some reason, hypothetically, let's say, Gerald  
25 Alvarado and Luis Velasquez stabbed Jesse Chavez

1 when he was with Ray Baca, if they stabbed two SNM  
2 members -- would it still be automatic for the SNM  
3 to retaliate under the SNM rules?

4 A. Yes, it would.

5 Q. You said you learned about the details of  
6 this over the years. Approximately how many  
7 times -- and often, over the years since I think you  
8 said 1990, have you talked with other SNM members  
9 about this murder?

10 A. It wasn't over the years. It was  
11 immediately after the stabbing.

12 Q. And who did you talk with immediately  
13 after the stabbing?

14 A. After the first incident, Luis  
15 Velasquez -- I mean with -- yeah, Gerald Alvarado  
16 stabbing Jesse Chavez, there was a high-ranking  
17 member who lived with us in cell block 5 by the name  
18 of Albert Chavez. Once lockdown was called, we were  
19 in the cell block, locked down. We weren't locked  
20 in our cell. As he entered the pod, he called a  
21 meeting between the brothers, at which time he gave  
22 us details that he was a witness to, that he  
23 witnessed Gerald Alvarado stabbing Jesse Chavez, and  
24 that it was on -- he mentioned that he thought Pup  
25 managed to get back to the cell block, and that Luis

1 Velasquez had made it to his cell block. He made it  
2 clear that he mentioned Luis Velasquez being with  
3 Gerald Alvarado at the time. He said Gerald  
4 Alvarado stabbed Jesse, and stated that it was on,  
5 meaning that there was going to be some form of  
6 retaliation on Luis Velasquez.

7 Q. And that was after the stabbing of Jesse  
8 Chavez, but before Mr. Baca killed Mr. Velasquez?

9 A. Yes, yes.

10 MR. BECK: Nothing further, Your Honor.

11 THE COURT: All right. Did you have  
12 something further, Mr. Lowry?

13 MR. LOWRY: No, Your Honor. But actually,  
14 we'd like to call Special Agent Bryan Acee to the  
15 stand.

16 THE COURT: What for?

17 MR. LOWRY: Well, Your Honor, Mr. Acee has  
18 done a pretty extensive investigation into this  
19 organization and the SNM. And he's interviewed  
20 other witnesses that have flatly contradicted this  
21 witness' testimony. And unfortunately, we don't  
22 have them here today, but we do have Mr. Acee, and  
23 he's interviewed them. And since this is a 104  
24 hearing and we can entertain hearsay, we can  
25 entertain Mr. Acee's recollection about what these

1 other people had to say about this very exact same  
2 incident.

3 THE COURT: What's your thoughts, Mr.  
4 Beck?

5 MR. BECK: I think that's fair. I think  
6 that -- I think it may be better not to do this  
7 right now just because of timing. I don't think --  
8 based on what I heard, I don't intend to bring out  
9 that information with Mr. Archuleta at this time,  
10 because I think --

11 THE COURT: What Mr. Baca said about the  
12 Velasquez murder?

13 MR. BECK: His admission about the  
14 Velasquez murder. I guess I don't know exactly from  
15 the witness what Mr. Baca said to him. I think he  
16 talked about -- I think he talked about it while  
17 they were in the cell together. Well, I guess,  
18 yeah, I guess that's true. I might -- so I don't  
19 know. But if he does know something, I would like  
20 to bring that out on direct. So I guess we should  
21 probably proceed with Mr. Acee.

22 THE COURT: Well, before we have Mr. Acee,  
23 would it be best to hear what -- out of the presence  
24 of the jury -- what Mr. Archuleta is going to say  
25 that Mr. Baca said? And that way, you can then

1 decide whether you want to use it or not. If you're  
2 not going to use it, this issue is becoming rather  
3 moot.

4 MR. BECK: I don't think it's moot,  
5 because we said we might call back Mr. Rodriguez.  
6 But you're up there, and there is a good reason for  
7 that, and I will take your advice and listen to what  
8 Mr. Archuleta has to say right now.

9 THE COURT: All right. Let's hear that.  
10 We'll maybe excuse him and put Mr. Acee on the  
11 stand.

12 MR. LOWRY: May I stay here, Your Honor?

13 THE COURT: That's fine.

14 Go ahead, Mr. Beck.

15 BY MR. BECK:

16 Q. Mr. Archuleta, you said earlier that when  
17 you were housed with Mr. Baca in Q pod, while he was  
18 going to trial, you talked with him. Did he say  
19 anything to you during that time about his murder?

20 A. No, he didn't.

21 MR. BECK: Okay. That's sort of what I  
22 expected.

23 THE COURT: Okay.

24 MR. BECK: So that's why I don't think I  
25 intend to get into anything in this with Mr.

1 Archuleta. I just wanted to lay that --

2 THE COURT: You just want him to provide  
3 the backdrop for Mr. Montoya to testify?

4 MR. BECK: Right. So I think Mr. Baca is  
5 entitled to present a witness for a 104 hearing, as  
6 well, if he can contradict it. But we might use Mr.  
7 Archuleta while he's here now.

8 THE COURT: Why don't I have the transport  
9 officer take Mr. Archuleta and stand by the door.  
10 Let me see how long this takes.

11 Do you want to drag a chair in there or  
12 something like that? That would be fine. But let's  
13 don't go too far off.

14 All right. Mr. Acee, if you'll come up.  
15 Before you're seated -- well, I'll just remind you,  
16 you're still under oath. I think you're subject to  
17 re-call throughout, so I'll just remind you you're  
18 still under oath.

19 All right. Mr. Lowry, if you wish to  
20 conduct examination of Mr. Acee, you may do so at  
21 this time.

22 Q. Yes, Your Honor, I do. Thank you. May it  
23 please the Court?

24 THE COURT: Mr. Lowry.

25



1 BRYAN ACEE,  
2 after having been previously duly sworn under  
3 oath, was questioned, and continued testifying  
4 as follows:

5 CROSS-EXAMINATION

6 BY MR. LOWRY:

7 Q. Good afternoon, Special Agent Acee.

8 A. Good afternoon.

9 Q. Agent Acee, you're familiar with a witness  
10 who was just here this morning, Julian Romero?

11 A. Yes, sir.

12 Q. And I believe it was on March 31 of 2017  
13 you picked up Mr. Romero and transported him, I  
14 think, from Albuquerque to the Old Main facility and  
15 did a tour of Old Main with him?

16 A. Yes.

17 Q. And you tape-recorded that?

18 A. I did.

19 Q. And during that whole -- throughout the  
20 day, in the tape-recordings you discuss many things.

21 But do you recall discussing with him at the Old  
22 Main, as you walk down the corridor, the murder that  
23 happened where Mr. Velasquez lost his life?

24 A. Yes.

25 Q. Do you recall Mr. Romero telling you that

1 Velasquez had a knife in his pocket with Anthony  
2 Baca's name on it?

3 A. That does sound familiar.

4 Q. Okay. And after you completed that  
5 tour -- and he said it not once, but I think twice,  
6 that, you know, this was a simmering feud between  
7 these two guys.

8 A. That sounds familiar.

9 Q. And afterwards, you wrote a report based  
10 on your visit?

11 A. Yes, sir.

12 Q. And would it be fair to say that in your  
13 report -- and I'm happy to share this with you, but  
14 may I read it to you?

15 A. Fine with me.

16 Q. You wrote in your report at Bates --  
17 DeLeon Bates No. 24256 regarding this, it says, "The  
18 murder Anthony Baca committed at the Old Main was  
19 preemptive and based on an ongoing feud with another  
20 inmate."

21 MR. LOWRY: May I approach, Your Honor?

22 THE COURT: You may.

23 BY MR. LOWRY:

24 Q. Did I read that correctly?

25 A. Yes, sir, you did.

1 Q. And through your interview with Julian  
2 Romero, did you have any sense that that was wrong?

3 A. No.

4 MR. LOWRY: No further questions, Your  
5 Honor.

6 THE COURT: All right. Thank you, Mr.  
7 Lowry.

8 Mr. Beck.

9 REDIRECT EXAMINATION

10 BY MR. BECK:

11 Q. Special Agent Acee, is everything that  
12 every cooperator has told you in this case true?

13 A. No.

14 Q. Do you know whether Julian Romero had  
15 firsthand information about what he told you about  
16 Pup's murder?

17 A. No.

18 Q. When Mr. Romero came in and testified  
19 today, this morning, do you think he was completely  
20 forthright and truthful with his testimony?

21 MR. LOWRY: Objection, Your Honor. He's  
22 not a lie detector.

23 THE COURT: Well, I may not consider it,  
24 because it's vouching. But let me hear where we're  
25 going, then I'll make a decision.

1 A. He was not.

2 BY MR. BECK:

3 Q. Why did you think that? Before we get  
4 there, what did you tell me after Mr. Romero  
5 testified this morning when we were on break?

6 A. He resorted back to the convict code. He  
7 didn't want to name any names. He was more  
8 forgetful than normal.

9 Q. And was that when I asked about who shot  
10 him in 2003?

11 A. That, and the video. He knows who was in  
12 the pod and who hit him. We've talked about it  
13 dozens of times at length.

14 Q. And when he talked about who was in the  
15 pod this morning, he didn't name any names until I  
16 asked him about specific people. Do you remember  
17 that? Or he named Mr. Aronda, right? One person?

18 A. He only said Pete. He couldn't remember  
19 his last name.

20 Q. And aside from Mr. Aronda this morning,  
21 did he, as you recollect it -- and your recollection  
22 may be different than mine -- did he name anyone  
23 else here in the courtroom who participated with him  
24 in criminal activity?

25 A. No, he did not.

1 MR. BECK: Nothing further, Your Honor.

2 THE COURT: All right. Thank you, Mr.

3 Beck.

4 Mr. Lowry?

5 RECROSS-EXAMINATION

6 BY MR. LOWRY:

7 Q. Agent Acee, notwithstanding the testimony  
8 from this morning, you didn't have any reason to  
9 believe that Mr. Romero wasn't forthcoming with you  
10 on March 31, 2017, did you?

11 A. No.

12 Q. And if you thought he wasn't being  
13 truthful and honest, would you present him as a  
14 witness on behalf of the United States?

15 A. That's a tricky question.

16 Q. It's one that deserves a fair answer.

17 A. Well, I first would try to flesh out the  
18 truth, and then I'd make all of that known to the  
19 U.S. Attorney's Office.

20 Q. Right. I understand that. But my  
21 question to you is that if you, as an agent of the  
22 United States, thought that a witness was going to  
23 be less than truthful or honest, would you allow  
24 them to take the stand in a court of law?

25 A. I think I misunderstood your question.

1 No, I would not.

2 Q. And with regard to the truthfulness of the  
3 witnesses that were heard from today, I believe --  
4 were you at the last debrief with Gerald Archuleta  
5 on January 22, 2018, when he was preparing for this  
6 case?

7 A. No.

8 Q. But you did do an audio recorded interview  
9 with Gerald Archuleta on May 8 of 2017?

10 A. Yes, sir.

11 Q. And during that audio recording of Mr.  
12 Archuleta, you asked him point-blank who called him  
13 after the Julian Romero assault at Southern on July  
14 13, 2015?

15 A. Yes.

16 Q. Do you recall his answer in the May 8,  
17 2017, interview?

18 A. No. And I'm sorry, I didn't know I was  
19 going to be up here today, or I would have prepared  
20 better.

21 Q. That's fair. Would you accept my  
22 representation to you that in the audio recording  
23 that we can all go back and check, he said that he  
24 got a single call when he was talking to Chris  
25 Garcia about getting Suboxone; and during that call,

1 Garcia mentioned the Romero assault.

2 A. That sounds familiar.

3 Q. He didn't get calls from anyone else? Not  
4 Carlos Herrera, not Lupe Urquizo?

5 A. No, I remember asking about Lupe and I  
6 don't think he recalled that.

7 Q. That's correct. You're absolutely right.  
8 You gave him a point-blank question, if Lupe Urquizo  
9 had called him. And he said no, he had not.

10 A. No, and I don't believe I ever asked him  
11 if Carlos Herrera called him.

12 Q. And you did not.

13 MR. LOWRY: May I approach, Your Honor?

14 THE COURT: You may.

15 BY MR. LOWRY:

16 Q. Nonetheless, in his trial preparation  
17 debrief with the United States -- and I don't  
18 believe you were there for that meeting -- but it  
19 says that he met with the Assistant U.S. Attorney  
20 Matthew Beck at the courthouse to prepare, and that  
21 during that conversation, he told Mr. Beck that he'd  
22 received three calls from Carlos Herrera, Lupe  
23 Urquizo, and Christopher Garcia.

24 A. That's what it says, sir. And you're  
25 correct, this is not my report, and I wasn't there.

1 Q. Fair enough. But -- and my point is:  
2 Even when he took the stand today, the story changed  
3 yet again, and he said he'd only heard from one  
4 person. He went back to your May 8 version, which  
5 is: He only heard from Chris Garcia.

6 A. I did hear him say that today.

7 Q. And that's the only name he mentioned with  
8 regard to this call.

9 A. Today in court, yes.

10 Q. And my point is: When you're talking  
11 about credibility assessments with individuals, it's  
12 a difficult proposition on a good day.

13 A. Some individuals more than others.

14 Q. So if you're inclined to disbelieve Julian  
15 Romero for reverting to the convict code, are you  
16 similarly inclined to disbelieve Gerald Archuleta  
17 for reverting to the SNM code?

18 A. I may not understand the question.

19 Q. Okay. Let me simplify it. Mr. Archuleta  
20 came in, took the stand, took the oath, swore to  
21 tell the truth. And he stood up and canvassed the  
22 room and couldn't recognize Mr. Baca.

23 A. Well, I looked at Mr. Baca, and he had his  
24 head down. It was hard for me to find him. So I  
25 don't know how to answer that one.



1 Q. You don't think that was resorting to the  
2 convict code?

3 A. No. I think Archuleta has trouble seeing,  
4 too. He has a couple pairs of glasses. I think  
5 these are just reading ones. He may not have  
6 brought his Coke bottle -- his other glasses.

7 Q. That's your speculation.

8 A. It is, yeah.

9 Q. You don't know what his eye prescription  
10 is.

11 A. No. I know he has bad eyesight. I've  
12 witnessed that. But I don't know what his  
13 prescription level is.

14 Q. Short-range or long-range?

15 A. I don't know. We'd have to hang out some  
16 more.

17 MR. LOWRY: No further questions, Your  
18 Honor.

19 THE COURT: Thank you, Mr. Lowry.

20 Mr. Beck?

21 MR. BECK: Briefly.

22 REDIRECT EXAMINATION

23 BY MR. BECK:

24 Q. Special Agent Acee, who wrote this report  
25 that you just read from?

1 A. Nancy Stemo.

2 Q. Was there a recording associated with  
3 this?

4 A. I don't believe so.

5 Q. Do you know of a recording that was  
6 associated with this?

7 A. No.

8 Q. Mr. Archuleta's testimony today -- was  
9 that consistent with how he answered in your  
10 interview before, about the call with Chris Garcia?

11 A. Yes.

12 Q. And again, you weren't there on January  
13 22, 2018, when Nancy Stemo took this report, were  
14 you?

15 A. No, sir.

16 MR. BECK: All right. Nothing further,  
17 Your Honor.

18 THE COURT: All right. Thank you, Mr.  
19 Beck.

20 Anybody else have any questions of Mr.  
21 Acee on this issue?

22 All right. Mr. Acee, you may step down.  
23 Thank you for your testimony.

24 Here's my problem, Mr. Beck, is if you  
25 don't have any admissible -- I know I can consider

1 inadmissible evidence in a 104. But once we go back  
2 in front of the jury, you're wanting to put a  
3 statement by Mr. Baca that he committed this murder.  
4 There is nothing in that statement that says it's an  
5 SNM murder. It just is a statement that he did the  
6 murder, if I remember the statement that you put.  
7 And so therefore, there is not going to be anything  
8 in front of the jury that links it to an SNM murder.  
9 There is now in front of me hearsay evidence, and I  
10 can consider that. The problem is: Once we're back  
11 in front of the jury, we're throwing out a murder  
12 and I don't know how the jury decides it is or is  
13 not an SNM murder, because we're not giving them any  
14 admissible evidence.

15 MR. BECK: I think -- I'm sorry.

16 THE COURT: It's sort of -- I mean, I  
17 guess they could implicitly think that the Court  
18 think it's an SNM murder and therefore it's  
19 relevant. But it troubles me a little bit we're not  
20 giving the tools to the jury to make that  
21 determination.

22 MR. BECK: I expect that the tools for the  
23 jury will come from Mr. Rodriguez' testimony about  
24 Mr. Baca's admission. The other tools the jury has  
25 is a wealth of information, not only from Mr.

1 Archuleta, but from the litany of cooperators who  
2 have testified about the SNM retaliating against  
3 other gang members when they're hit over drugs,  
4 because someone is stabbed, and you just heard Mr.  
5 Archuleta. It doesn't have to be over drugs. It  
6 can be just because two people are stabbed.

7 There are a number of bad acts that come  
8 in for every defendant in this case and in the  
9 second trial that the jury doesn't have a lot of  
10 information about why they are SNM hits, beside just  
11 that they committed this crime while they were in  
12 SNM or while they were being recruited for SNM.

13 So that's not a concern of mine, and it's  
14 not as if it's a collateral estoppel issue. The  
15 Court is not going to instruct that the jury must  
16 find or must presume that Mr. Baca committed this  
17 murder at all. Rather, it's just evidence of the  
18 enterprise. It's evidence of the racketeering  
19 activity that the jury is to consider along with any  
20 other evidence, and if they don't see that the  
21 United States proved beyond a reasonable doubt that  
22 it was connected, then they're not going to use it  
23 for enterprise activity.

24 THE COURT: But I don't see any admissible  
25 evidence that helps them make that determination one

1 way or another. The only way they would make it is  
2 to listen to this evidence, which they can't do, Mr.  
3 Archuleta's.

4 MR. BECK: They've heard the evidence of  
5 the way in which SNM retaliates; that if someone  
6 from SNM is stabbed, another person from SNM  
7 retaliates in favor of that. They can -- you know,  
8 we can get out, from Mr. Archuleta, that he knows  
9 these two people to be SNM members and the other two  
10 people to not be SNM members. We can get that  
11 information out so they have the tools to infer that  
12 when Mr. Baca then later murders this person, it was  
13 an SNM hit, because he was with another SNM member  
14 who was stabbed by someone who is not another SNM  
15 member, or -- and he doesn't even need to know that  
16 he was stabbed; just that they were put in lockdown  
17 right afterwards, and someone was put in  
18 segregation.

19 So there is enough information for them to  
20 link it up with the inferences that they're allowed  
21 to make, to find that it's racketeering activity.

22 THE COURT: Let me give it some thought.  
23 I'm not persuaded yet it's coming in. But let me  
24 look a little bit. Somebody may have written on  
25 this, or commented on it, and stuff. But I'm not

1 quite convinced that if there is not admissible  
2 evidence -- and I'm not sure there is. I think what  
3 the jury is going to do is, they're going to say,  
4 "Well, the judge let this murder in. Therefore, it  
5 must be SNM-related," and not go through the task,  
6 because they haven't had to do that for anything  
7 else. It's just been spoon-fed to them. And I'm  
8 not sure they're going to separate this one out and  
9 say, "Well, we don't know why" -- and question  
10 whether it should be -- they should be making the  
11 determination that it's SNM-related.

12 MR. BECK: Sure.

13 THE COURT: Let me give it some thought.

14 MR. BECK: Sure. I understand the Court's  
15 position. I think that's a fair call to make.

16 It's come to my attention, based on what  
17 defense counsel said, and then a discussion with Ms.  
18 Armijo, that they are not in receipt of the Saturday  
19 302 on Mr. Archuleta and, I'm guessing, other people  
20 that we met with on Saturday. I thought that was  
21 disclosed. It must not be yet, so I'd just ask to  
22 disclose it. Apparently, it was just disclosed. So  
23 that came to my attention. I'm raising it now.  
24 We're at fault for not disclosing that.

25 Mr. Archuleta and I met on Saturday.

1 That's where we discussed this incident and his  
2 Suboxone use while cooperating. So I guess the  
3 defendants now have that. When Mr. Lowry came up  
4 and asked about the last debrief on January 22, it  
5 tipped in my mind that wasn't the last debrief. And  
6 so I want to put that on the record so that they can  
7 have that information and raise with the Court  
8 whatever they need to.

9 THE COURT: Okay. Mr. Lowry.

10 MS. FOX-YOUNG: Your Honor, I think Mr.  
11 Beck said that there were several meetings on  
12 Saturday, and I don't believe we have any other 302s  
13 from the other meetings. So I'd ask that the  
14 Government produce those forthwith.

15 THE COURT: Is there just one 302 from  
16 Saturday?

17 MR. BECK: I don't think so. I think  
18 there are a number.

19 MS. ARMIJO: I think there is just --  
20 before I sent that other one, I sent another one  
21 they should have, as well. Did you receive that,  
22 Ms. Jacks?

23 MS. JACKS: I received that.

24 MS. ARMIJO: There was one regarding  
25 Federico Munoz and one regarding Gerald Archuleta.

1 And I believe there will be one regarding Mario  
2 Montoya. He's not expected to testify till next  
3 week. And the formal discovery is going out today.  
4 And they'll be sent directly to you as well as to  
5 Mr. Aoki.

6 THE COURT: All right. Mr. Lowry?

7 MR. LOWRY: Your Honor, I appreciate the  
8 Court's insight into this issue. I don't want to  
9 belabor the point, but it bears repeating that this  
10 1989 murder was a capital case. And if this was  
11 gang-related, that would have been an aggravating  
12 factor for the jury to consider in the capital case.  
13 And despite all the resources of the State of New  
14 Mexico -- again, Ms. Duncan and I looked at that  
15 trial transcript, we've talked to the trial attorney  
16 who handled it. We talked to the appellate  
17 attorney. There was no gang affiliation related to  
18 that prosecution.

19 It boggles one's mind that 20-some-odd  
20 years after the fact, they want to make it a gang  
21 case, when, in the heat of the moment, when they  
22 were trying to take Mr. Baca's life from him, gangs  
23 had nothing do with it. And I don't think that the  
24 collective memory of either the witnesses or the  
25 community is going to get better over time, Your



1 Honor.

2 Thank you.

3 THE COURT: Thank you, Mr. Lowry.

4 Ms. Bhalla.

5 MS. BHALLA: Just briefly, Your Honor. I  
6 think as we move forward with Mr. Archuleta and we  
7 start introducing the transcripts that -- just that  
8 I think it's just going to be a difficult process  
9 for everybody. And that we try -- you know, if we  
10 need to approach ahead of the exhibits coming in, I  
11 would appreciate that. And I'm sorry, but it's  
12 just -- there is all -- you know, there is lots of  
13 different issues to look at, Your Honor. And one of  
14 those is whether or not some of the stuff they're  
15 admitting in this particular case has anything to do  
16 with SNM activity.

17 And so I'd just ask that we take it as it  
18 comes, I guess, Your Honor.

19 THE COURT: All right. Well, how long has  
20 Mr. Herrera had the transcripts that you're going to  
21 be using?

22 MR. BECK: I believe we provided those  
23 transcripts on Thursday -- I guess that would have  
24 been Thursday, February 1st? January 31? Thursday,  
25 February 1st, I think the transcripts were provided.

1 And I believe the DVDs were provided Friday,  
2 February 2.

3 THE COURT: I do recall that when they  
4 came in, you know, I was sort of -- I think I now  
5 have a process for me to get through the material.  
6 I didn't at the time they came in. But I did sit  
7 down and begin to look at them. And I didn't have a  
8 great deal of problem with what you're saying about  
9 Mr. Herrera. It seemed to me that it was very  
10 low-level. It seems very straightforward, what the  
11 Government had done.

12 MS. BHALLA: And I think the issue is,  
13 Your Honor, that they're pulling out pieces of the  
14 transcript to use. And you know, we weren't sure  
15 which pieces of the transcript they were going to  
16 use at the time. And I agree with you that I think,  
17 after speaking to Mr. Beck, I think that some of it  
18 there's not going to be an issue with it. But on  
19 some of it, I do see an issue with. And so, for  
20 example, I think that they're trying to introduce  
21 evidence of an assault my client was involved in,  
22 but there is no indication that that assault had  
23 anything to do with the SNM. And so I'm going to  
24 have a 403 objection to that, the way it's being  
25 presented, coming in. And I just want the chance to

1 make the objections before it comes out. It doesn't  
2 have to be lengthy.

3 THE COURT: All right. Fair enough.

4 MS. BHALLA: Thank you, Your Honor.

5 THE COURT: All right. Let's get Mr.  
6 Archuleta in here, and then we'll bring the jury in.

7 MS. JACKS: Your Honor, should Mr. Sanchez  
8 go ahead and put on the record his objections to  
9 these tape recordings of Mr. Herrera being admitted,  
10 so we don't have to object to each one as it comes  
11 in, in front of the jury?

12 THE COURT: Well, again, these have been  
13 out for a long time.

14 MS. JACKS: I understand. But these  
15 aren't admissible against Mr. Sanchez. My  
16 understanding is, these are being admitted as  
17 admissions of Mr. Herrera.

18 THE COURT: Okay. And what is -- what are  
19 you then objecting to?

20 MS. JACKS: So our objection is to all of  
21 the recordings, based on the Fifth and Sixth  
22 Amendments, as we previously argued, and the fact  
23 that it's hearsay that, along with other evidence,  
24 could be used to corroborate the informants that are  
25 being offered against Mr. Sanchez.

1 THE COURT: All right. Okay.

2 MS. JACKS: So given that I've made those  
3 objections, we won't be renewing them, we don't need  
4 to renew them each time.

5 THE COURT: I understand what you're  
6 saying. And I don't think you need to renew it.

7 MS. JACKS: Thank you.

8 MR. LOWRY: And Mr. Baca would join that.

9 THE COURT: I understand the Defendants  
10 are joining that.

11 MR. VILLA: Mr. Perez, as well, just for  
12 the record.

13 THE COURT: Okay, Mr. Villa. So noted.

14 MR. BECK: I think there will be evidence  
15 of racketeering activity, enterprise activity within  
16 these that may be admissible against all of them.  
17 But we can take them as they come and listen to  
18 what's said and raise those at the time.

19 At this time, Your Honor, I'll move to  
20 admit Government's Exhibits 206, 208, 210, 212, 214,  
21 and 216. That's six recordings that Mr. Archuleta  
22 made of Mr. Herrera while they were incarcerated  
23 together in 2016.

24 THE COURT: All right. Any other  
25 objections that need to be noted? Otherwise, I'll

1 admit them into evidence.

2 Ms. Jacks?

3 MS. JACKS: We've previously noted our  
4 objection, and I would simply note that I think it's  
5 going to be unduly confusing for the jury if these  
6 are admitted for some -- or parts of these  
7 conversations are somehow then admitted against  
8 everybody, and I would ask --

9 THE COURT: No, I'm going to give an  
10 instruction as to all of it. These are statements  
11 by Mr. Herrera. And so you'll get a limiting  
12 instruction. I think that's the easiest way to deal  
13 with it. And I think that's what we had planned on.

14 MR. BECK: I think that's fair.

15 THE COURT: I think we could go line by  
16 line, and some of it might be state of mind. But I  
17 think we planned on these tapes to be rather  
18 clear-cut.

19 Do you agree with that, Mr. Beck?

20 MR. BECK: Yes, Your Honor. I think  
21 that's fair.

22 THE COURT: So you'll get the instruction  
23 as to all the tapes that are being made of Mr.  
24 Herrera.

25 MS. JACKS: Thank you very much.

1 MR. VILLA: Your Honor, in response to the  
2 Court's inquiry, we have no other objection, other  
3 than what's been previously raised.

4 THE COURT: Okay. Then, with that, then I  
5 will admit Government's Exhibit, 206, 208, 210, 212,  
6 214, and 216.

7 (Government Exhibits 206, 208, 210, 212,  
8 214 and 216 admitted.)

9 THE COURT: All rise.

10 (Jury entered the courtroom.)

11 THE COURT: All right. Everyone be  
12 seated. Don't worry about lunch. We're not going  
13 to penalize you and start the clock now. We've been  
14 working in here, and we're going to have to give  
15 Ms. Bean a break. So we're going to go to 1:15 and  
16 then we'll take a lunch break. I appreciate your  
17 patience. As I told you in the preliminary,  
18 sometimes we have to have a conference with the  
19 attorneys and the parties, that actually saves time  
20 in the end. And I think this may be a good example  
21 of it. So I appreciate your patience. We'll take a  
22 break at 1:15.

23

24

25

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1 GERALD ARCHULETA,  
2 after having been previously duly sworn under  
3 oath, was questioned, and continued testifying  
4 as follows:

5 THE COURT: All right. Mr. Archuleta, I  
6 remind you that you're still under oath.

7 THE WITNESS: Yes.

8 THE COURT: Mr. Beck, if you wish to  
9 continue your direct examination of Mr. Archuleta,  
10 you may do so at this time.

11 MR. BECK: Thank you, Your Honor.

12 CONTINUED DIRECT EXAMINATION

13 BY MR. BECK:

14 Q. Mr. Archuleta, were you arrested in this  
15 federal case in December of 2015?

16 A. Yes, I was.

17 Q. And where were you incarcerated, say, from  
18 approximately February to April of 2016?

19 A. I was being housed at the North facility.  
20 I believe in Unit 2-A, maybe.

21 Q. I think you already told the members of  
22 the jury, but at that time did you agree to go into  
23 the prison and make recordings of other inmates?

24 A. Yes, I did.

25 Q. Did you do that?

1 A. Yes, I did.

2 Q. During that period of time, were you  
3 housed next to Carlos Herrera?

4 A. Yes, I was.

5 Q. Did you record conversations with Mr.  
6 Herrera?

7 A. Yes, I did.

8 MR. BECK: At this time, Your Honor, may I  
9 publish and play for the jury portions of what's  
10 been admitted as Exhibit 212?

11 THE COURT: You may. Before you do, these  
12 are going to be recordings that Mr. Archuleta made  
13 of Mr. Herrera talking, so you can use these in your  
14 consideration of the charges against Mr. Herrera.  
15 But you can't use them against anyone else. And so  
16 if you're taking notes, there's going to be a number  
17 of these played. You might want to really note  
18 these. These can only be considered as to Mr.  
19 Herrera, and not the other three gentlemen.

20 All right, Mr. Beck.

21 BY MR. BECK:

22 Q. And Mr. Archuleta, if you look on the  
23 screen in front of you as it plays, it should show  
24 you the transcript.

25 (Tape played.)



1           A.     I'm having a hard time hearing. Can you  
2 start the recording again? I wasn't able to hear it  
3 for the first --

4           Q.     We'll go ahead and start the recording  
5 Government's Exhibit 212, one more time.

6                     (Tape played.)

7           Q.     Whose voice were we just listening to,  
8 Mr. Archuleta?

9           A.     We were listening to the voice of Carlos  
10 Herrera.

11          Q.     And Mr. Archuleta, do you wear glasses?  
12 Do you have trouble with your eyesight?

13          A.     These are reading glasses, yeah.

14          Q.     Do you generally have trouble with your  
15 eyesight, though?

16          A.     Reading, yes.

17          Q.     Do you see Mr. Herrera here in the  
18 courtroom?

19          A.     Yes, I do.

20          Q.     And where is he?

21          A.     He's over there with the black or  
22 dark-blue suit.

23                     MR. BECK: Let the record reflect he  
24 acknowledged the defendant, Mr. Herrera.

25                     THE COURT: The record will so reflect.

1 BY MR. BECK:

2 Q. I earlier asked you about Mr. Baca. How  
3 long has it been since you've been housed with Mr.  
4 Baca?

5 A. It's been a long time. Since the murder,  
6 since we were in Q pod. So that's -- what year did  
7 the murder take place?

8 Q. Just -- I mean, generally, how long? We  
9 don't need to know a year.

10 A. It's been over 15 years.

11 Q. Over 15 years since --

12 A. That I was housed with Ray Baca.

13 Q. All right. I'm going to start the  
14 recording again -- or not start again; sorry. Start  
15 it from here.

16 (Tape played.)

17 Q. And who is that who said, "Well, she did  
18 good and shit, I know"? Who is that talking?

19 A. That's Carlos Herrera.

20 Q. Who else is talking on this recording?

21 A. Myself.

22 Q. And are those the two voices we're  
23 hearing, you and Mr. Herrera?

24 A. Yes, they are.

25 Q. Please press play.

1 (Tape played.)

2 Q. In that conversation with Mr. Herrera,  
3 what are you talking about?

4 A. We're talking about -- we're initially  
5 talking about the raid on his mom. He mentioned  
6 they were looking for subs and things having to do  
7 with sneaking subs into the facility through the  
8 postal service.

9 Q. And when you say "subs" --

10 A. Suboxone.

11 Q. And when he said, "I had 20 strips there,"  
12 what was he saying?

13 A. He was saying that they didn't find  
14 nothing, but that he had 20 strips in the house that  
15 got raided; that they didn't find them.

16 Q. Was he talking about bringing them into  
17 the jail facility?

18 A. Yes.

19 Q. And just now, right before I paused it,  
20 when he said, I think in here, it's highlighted at  
21 the beginning of that line 12 --

22 A. Nothing is highlighted on this.

23 Q. Okay. Where he says, "They don't even  
24 have a jale," what's a jale?

25 A. That's a job.

1 (Tape played.)

2 Q. When he said earlier, "The STG in here,"  
3 what's the STG?

4 A. It's the Security Threat Group unit from  
5 Corrections.

6 Q. Are they now known as STIU?

7 A. Yes, sir.

8 Q. And who is Shadow, Little Shadow?

9 A. Shadow is Billy Cordova, an SNM member.

10 (Tape played.)

11 Q. Who is he referring to as Garduno?

12 A. Excuse me?

13 Q. Who is Garduno?

14 A. Vincent Garduno. He's an SNM Gang member.

15 Q. When he is saying, "Somebody, too, like  
16 Garduno," and then "We're matching your name in  
17 writing labrada." What's a labrada?

18 A. Labrada means out in the open, writing the  
19 letter, knowing that it will be monitored, maybe  
20 sending it through inmate postal service. So it's,  
21 like, out in the open to be monitored, labrada.

22 Q. While you're incarcerated, is your mail  
23 that goes out from you monitored?

24 A. Yes, it is.

25 Q. And who monitors it?

1 A. STIU.

2 Q. And so what is he talking about here, "Out  
3 in the open, writing a labrada"? What does he mean?

4 A. He's talking about they're writing letters  
5 knowing that STIU is monitoring our mail.

6 Q. As an SNM member, did you try to write  
7 letters written in code so that you could pass  
8 messages without STIU knowing?

9 A. I've tried.

10 (Tape played.)

11 Q. Is he saying there, talking about a  
12 recording?

13 A. He's saying that for them to have any  
14 evidence, that they would need a recording of the  
15 individuals talking about the actual case.

16 Q. And what case he talking about?

17 A. The murder of Javier Molina.

18 Q. Is that this case?

19 A. Yes, it is.

20 (Tape played.)

21 Q. When he says there, "Yes, we could attack,  
22 too, because them vatos are on meds," what does that  
23 mean to you?

24 A. He's saying the people doing the  
25 cooperating -- there can be an issue with the psych

1 meds that they are taking. So he's saying that  
2 defense could attack them because they were on psych  
3 meds.

4 (Tape played.)

5 Q. And what is he talking about there, that  
6 they've been here since 2007?

7 MS. BHALLA: I'm going to object. I think  
8 if they want to play the transcripts, that's fine.  
9 But having the witness try to interpret the  
10 conversation for the jury -- I think that invades  
11 the province of the jury, Your Honor.

12 THE COURT: I think it's permissible if  
13 they want to highlight particular portions.  
14 Overruled.

15 BY MR. BECK:

16 Q. What is he talking there, that they've  
17 been here since 2007?

18 A. He's talking about the feds, that they've  
19 been investigating the SNM since 2007.

20 Q. I'm going to now play for you portions of  
21 Government's Exhibit 216.

22 (Tape played.)

23 Q. So you're talking about getting a line to  
24 Mr. Herrera. What are you doing?

25 A. We're fishing. It's called fishing. The

1 COs don't pass nothing among inmates, so I'll make a  
2 line out of thread, coming from my boxers maybe,  
3 with an anchor at the end. I'll throw it out on the  
4 tier, and he will do the same, fishing my line. And  
5 we will tie messages on it or whatever we want to  
6 get passed, and --

7 Q. Have you fished kites, or messages, to  
8 other SNM members?

9 A. Yes, I have.

10 Q. Have you fished drugs to other SNM members  
11 in the past?

12 A. Yes, I have.

13 Q. But to be fair, what are you fishing here?

14 A. I'm sure we're fishing a shot of coffee.

15 Q. And coffee -- that's not a code word for  
16 anything? That's just coffee?

17 A. Yeah, that's just coffee.

18 (Tape played.)

19 Q. And we should point out, in this  
20 transcript, CHS -- is that you?

21 A. Yes, it is.

22 Q. Does that refer to a confidential human  
23 source?

24 A. Yes, it does.

25 Q. Is that what you were doing when you were

1 recording other people in the prison?

2 A. Yes, I was.

3 Q. And who is Jesse?

4 A. Jesse was the neighbor to my right, and  
5 Carlos was the neighbor to my left.

6 Q. And Herrera -- is that when Mr. Carlos  
7 Herrera is speaking?

8 A. Yes.

9 Q. And what is a helicopter?

10 A. Carlos was attempting to get, I believe, a  
11 shot of coffee from my neighbor Jesse. I was  
12 helping him to get it. Jesse is my neighbor to the  
13 right. He's a lot closer to me than Lazy is. He's,  
14 like, two feet away. So a helicopter is kind of,  
15 like, slang. He would throw the line in and yank  
16 it, and it would go right into my cell, without me  
17 having to fish it. That's a helicopter.

18 Q. Again, this is -- though you're not doing  
19 it here, this is a method you've used in the past to  
20 transfer contraband to other SNM inmates?

21 A. Contraband and other stuff.

22 Q. At this time, was Mr. Herrera indicted in  
23 this case?

24 A. I don't believe so.

25 Q. And I'm going to take you to another



1 portion of Exhibit 216.

2 (Tape played.)

3 Q. Mr. Archuleta, again, that is Mr. Herrera  
4 and you, when it says "CHS"?

5 A. Yes, it is.

6 Q. What are you talking about here, about the  
7 tapout program?

8 A. It's a program that's created that -- in  
9 order to get there, you have to -- it's for people  
10 that renounce gang affiliation. It's called tapout  
11 program. That's what he was talking about.

12 Q. All right. And where it says, a couple  
13 lines, "They have to give information or something,"  
14 what are you asking about there?

15 A. I guess part of entering this program, you  
16 have to give them information, such as when you came  
17 in, who brought you in, maybe how you made your  
18 bones. You have to give information.

19 Q. And with the SNM rules, are you allowed to  
20 give information to the corrections officers like  
21 that?

22 A. No, we aren't.

23 Q. What happens if you give corrections  
24 officers information like that?

25 A. You are green-lighted and targeted to be

1 killed.

2 Q. And in the end of that transcript where he  
3 says, "Let's all all fucking renounce. Let's just  
4 all go to the program and do a desmadre, ay," what  
5 is a desmadre?

6 A. A desmadre is to, like, make a mess, to go  
7 over there to the program acting like if you're  
8 renouncing, legitimately renouncing, and do a  
9 desmadre, meaning stab, assault legitimate  
10 renouncers.

11 MS. BHALLA: Objection, Your Honor. I  
12 think that's clearly invading the province of the  
13 jury in particular.

14 THE COURT: Overruled.

15 BY MR. BECK:

16 Q. All right. I think we've got one more  
17 excerpt we're going to play for you here from  
18 Exhibit 216.

19 (Tape played.)

20 Q. What are you talking about in this  
21 conversation with Mr. Herrera?

22 A. I asked if a certain individual was with  
23 Julian Romero on the tier.

24 Q. And who was that individual, if you  
25 remember?

1 A. I believe it was Juanito, Juan Mendez, an  
2 SNM Gang member, if I'm correct.

3 (Tape played.)

4 Q. Do you see where he says, "They fucking  
5 hit him, ay, that's what he got, fucking punk,  
6 pobrecito," who is he talking about?

7 A. He's talking about Julian Romero being  
8 assaulted.

9 Q. When he said, "They thought he was all  
10 firme," what does that mean to you?

11 A. "Firme" is, like, all good. "Hita,"  
12 everything was fine; he wasn't expecting an assault.

13 Q. Does that mean he thought the hit that  
14 you'd put out on him had been quashed or gone away?

15 A. Yes, that's what that means.

16 (Tape played.)

17 Q. Who are Shiman and Playboy?

18 A. Shiman and Playboy are SNM Gang members.  
19 These are the individuals who shot Julian Romero  
20 when he was shot, when Julian was shot.

21 Q. That's when you ordered Playboy to shoot  
22 Julian Romero, he and Shiman shot Julian Romero. Is  
23 that what you're saying?

24 A. That's correct.

25 (Tape played.)

1 Q. And who are you talking about here about  
2 29 or 30?

3 A. We're talking about the individual that  
4 assaulted Julian Romero in the Southern correctional  
5 facility.

6 Q. I think earlier on in your testimony this  
7 morning, you and I said that Mr. Herrera -- or you  
8 said that Mr. Herrera told you about the Julian  
9 Romero incident. Is this where he told you, when  
10 you were in prison together?

11 A. Yes.

12 (Tape played.)

13 Q. What's a paiza?

14 A. That's a Mexican. A paiza is a Mexican  
15 national.

16 (Tape played.)

17 Q. When you asked Mr. Herrera, how did he  
18 know that Julian wasn't worth a fuck, what does it  
19 mean, that Julian wasn't worth a fuck?

20 A. That he was green-lighted. How did the  
21 guy that assaulted Julian -- how did he know that  
22 there was a green light on him.

23 Q. When Mr. Herrera said to you, "Well, he  
24 just knew that, didn't need to know nothing, just  
25 needs to know how to handle that, you know what I

1 mean; they're all truchas, all that," what does that  
2 mean to you?

3 A. That means that he was directed just to  
4 take care of that without knowing why. He was a  
5 member of the SNM, and when asked to do something,  
6 you do it. You follow orders. But he didn't know  
7 the reason why he was assaulting Julian, or the  
8 reason why the green light was placed on him.

9 Q. And does that happen with younger members?  
10 They're just told to assault without being told why?

11 A. Well, there's been cases where you can  
12 explain why he's being -- why the green light was  
13 placed on an individual that he's about to target.  
14 But in this case, maybe there was a trust issue, and  
15 they didn't share the details with him.

16 (Tape played.)

17 Q. There is a couple of things in there. Mr.  
18 Herrera says, "I didn't need to rap to a bunch of  
19 fucking weirdos over there at PNM." What does "rap  
20 to" mean?

21 A. That means talk to, communicate with.

22 Q. What is he staying there, that he wouldn't  
23 rap to some people, but he would to others?

24 A. That he'd only rap to those that they were  
25 in on the assault on Julian Romero, but he didn't

1 rap to others about it.

2 Q. And where he says, "There was just a few  
3 that was willing to rollo," what does "willing to  
4 rollo" mean?

5 A. Willing to talk about it. He's talking  
6 about there were others on the side that were in the  
7 unit that were willing to talk, even talk about the  
8 Julian issue. They wanted no part of it.

9 (Tape played.)

10 Q. So what does that mean: Getting  
11 comfortable, everyone's getting high? What is he  
12 telling you that they were doing in the pod at that  
13 time?

14 A. He's saying that they were getting high in  
15 the pod. He's saying that Julian was comfortable.  
16 Again, he didn't suspect anything. It was like the  
17 hit didn't exist.

18 (Tape played.)

19 Q. What does "chafa" mean, where he says he's  
20 chafa?

21 A. That means he's no good, he's chafa.

22 Q. Does that mean that he's no good with the  
23 SNM Gang?

24 A. Yes. He's no good with the SNM Gang.

25 Q. And there he says something, and then he

1 says "squina." What is that?

2 A. Squina means help from other brothers in  
3 the form of just helping them. That's getting  
4 squina.

5 Q. I'm going to play you excerpts from  
6 Exhibit 206.

7 (Tape played.)

8 MS. BHALLA: Can we approach with this  
9 particular exhibit?

10 THE COURT: You may.

11 (The following proceedings were held at  
12 the bench.)

13 MS. BHALLA: There is no indication this  
14 had anything to do with SNM. The guards pulled him  
15 out of the shower in front of everybody, according  
16 to the transcripts. I don't think it has anything  
17 to do with the enterprise, anything to do with SNM.  
18 And I think at this point it's hearsay. This was  
19 the particular one I was referring to before we got  
20 started this afternoon.

21 MR. BECK: I do think we've heard from  
22 several SNM members that they felt they were being  
23 disrespected by a CO. And my understanding is they  
24 pulled him out naked, so he felt disrespected, so he  
25 wanted to fire back at the CO at that point.

1 MS. BHALLA: I think one of the things  
2 that was required by the bad acts, they link it up  
3 with specific facts to tie this in to SNM. And the  
4 fact that he was disrespected just isn't enough.

5 THE COURT: I'm going to overrule the  
6 objection. I think there is a lot of testimony  
7 about the relationship between the COs and the SNM  
8 members. So I'm going to allow this.

9 Are you going to get into further here as  
10 to -- with this witness to lay more foundation?

11 MR. BECK: Yes.

12 MS. BHALLA: Just for the record, I don't  
13 think that it's appropriate to have them  
14 interpreting what is considered to be an SNM matter.  
15 He wasn't in custody.

16 THE COURT: You can certainly ask the  
17 question: What did you understand him to be saying?  
18 That way, he's not testifying directly to what he  
19 said, but what he meant. But put it in terms of:  
20 What did you understand him to be saying? What did  
21 you understand the conversation to be about? I  
22 think that's appropriate.

23 MR. CASTELLANO: Your Honor, just a  
24 housekeeping matter. Now that the recordings are  
25 coming out, can the Court instruct the jury about



1 the recordings and the fact that the transcripts  
2 will aid the jury, but let them know they won't be  
3 getting the transcripts in deliberations? That way  
4 they may --

5 THE COURT: The answer is yes. I wasn't  
6 ignoring you.

7 MR. CASTELLANO: That's why I waited. I  
8 know you were getting something.

9 THE COURT: I can either pull out the one  
10 I've written for the final instructions, or I can  
11 give this one. But I'll give it now before I send  
12 them to lunch.

13 MR. CASTELLANO: Thank you, Judge. That  
14 way, they'll know to take better notes and know  
15 there won't be a transcript. Thank you, sir.

16 (The following proceedings were held in  
17 open court.)

18 THE COURT: I know I'm standing between  
19 you and lunch, but let me give you an instruction.  
20 It will apply throughout all the sort of recordings  
21 you're going to hear, and so I'll probably give it  
22 as often as the parties want me to give it to you,  
23 but I'll give it to you now.

24 During the trial, you have heard and you  
25 will be hearing some sound recordings of certain

1 conversations. These conversations were legally  
2 recorded. They are a proper form of evidence and  
3 may be considered by you as you would any other  
4 evidence.

5           You were also given transcripts of those  
6 recorded conversations. Keep in mind that the  
7 transcripts are not evidence. They were given to  
8 you only as a guide to help you follow what is being  
9 said. The recordings themselves are the evidence.  
10 If you noticed any differences between what you  
11 heard on the recordings and what you read in the  
12 transcripts, you must rely on what you heard, not  
13 what you read. If you could not hear or understand  
14 certain parts of the recordings, you must ignore the  
15 transcript as far as those parts are concerned.

16           All right. Let's go ahead and take our  
17 lunch break, and we'll see you back in about an  
18 hour. All rise.

19           (The jury left the courtroom.)

20           THE COURT: During your lunch break, you  
21 might want to particularly, Mr. Beck, take a look at  
22 United States v. Bonds; that's in Barry Bonds. It's  
23 the BALCO case from the Second Circuit, 608 F.3d  
24 495 -- I said Second Circuit. Ninth Circuit, 2010.  
25 It deals with conditional relevance. And I believe

1 that's what this is, because this murder that --  
2 trying to get the evidence in against Mr. Baca is  
3 only relevant if it's SNM-related.

4 I think my instincts were right, so I  
5 think this case basically says that if the judge is  
6 determining a preliminary question of conditional  
7 relevance, you've got to revert back, not to 104,  
8 but the evidentiary rules of admissibility apply.

9 So in BALCO, the only way they had a link  
10 between BALCO and Bonds was inadmissible hearsay.  
11 And they said that wasn't enough for the judge,  
12 then, to let it in. So take a look at it.

13 Also, if you want to look at what  
14 Salzburg's treatment of it is, it's in Section  
15 104.02, pages 4 to 5. So that will give you a  
16 synopsis. Or you can look at the case. So based  
17 upon that, I'd be inclined to keep it out. But  
18 that's what I'm thinking right at the moment.

19 All right. See you after lunch.

20 (Court was in recess.)

21 THE COURT: All right. We'll go on the  
22 record. Is there anything --

23 THE CLERK: We're still waiting on a  
24 couple of defendants. Mr. Baca and Mr. Perez are  
25 not here yet.

1 MR. VILLA: I don't have a client.

2 THE COURT: I looked over and saw  
3 attorneys. I didn't check with clients. I need to  
4 wait for Mr. Baca.

5 All right. Are we ready to bring Mr.  
6 Archuleta in? Anything we need to discuss before we  
7 bring him in?

8 MR. LOWRY: Well, Your Honor, after all of  
9 that, Mr. Archuleta dove right into referencing the  
10 1989 murder, I believe. And if we could just  
11 admonish him not to discuss that. I didn't object  
12 at the time; I didn't want to draw undue attention  
13 to the jury. I think they've heard about so many  
14 murders, it kind of went under the radar.

15 THE COURT: I don't disagree with this.

16 MR. LOWRY: It would be nice for the Court  
17 to admonish him, before the jury comes in, that  
18 that's off the table.

19 THE COURT: I will do that. Anything  
20 else?

21 Mr. Beck, anything from the Government  
22 side?

23 MR. BECK: No, Your Honor.

24 THE COURT: Any other defendants have  
25 anything to discuss?

1 All right. Well, go on the record.

2 Mr. Archuleta, I have not decided, but  
3 right at the moment I'm keeping out evidence of any  
4 murder, alleged murder by Mr. Baca of Mr. Velasquez.  
5 So I kept it out of the trial.

6 THE WITNESS: All right.

7 THE COURT: So you have to answer your  
8 questions truthfully. I always want you to tell the  
9 truth. But if at any point -- don't volunteer  
10 anything about that murder. Okay? Because right  
11 now, I'm keeping it out of the trial. So don't  
12 volunteer it. If you are asked a question and the  
13 only way you can truthfully answer the question is  
14 to talk about that murder, then tell us that you  
15 can't answer that question and obey the Court's  
16 instruction, and we'll figure out where to go from  
17 there. But don't volunteer this or get into it  
18 unless you're specifically asked.

19 THE WITNESS: Okay.

20 THE COURT: All rise.

21 (The jury entered the courtroom.)

22 THE COURT: All right. Mr. Archuleta,  
23 I'll remind you that you're still under oath.

24 THE WITNESS: Yes, sir.

25 THE COURT: Mr. Beck, if you wish to

1 continue your direct examination of Mr. Archuleta,  
2 you may do so at this time.

3 BY MR. BECK:

4 Q. Mr. Archuleta, did SNM members assault  
5 corrections officers?

6 A. Yes, they did.

7 Q. And if a corrections officer disrespected  
8 the SNM or treated them poorly, was it a rule that  
9 the SNM had to respond by assaulting that  
10 corrections officer?

11 A. I wouldn't say it was necessarily a rule.  
12 But some took it upon themselves to assault COs when  
13 they had disputes, which wasn't a violation of any  
14 sort of rule, I mean, if you did assault them.

15 Q. Okay. I'm going to play for you -- let's  
16 do clip 2 -- I'm going to play for you a portion of  
17 Exhibit 206.

18 (Tape played.)

19 Q. What was Mr. Herrera talking about in that  
20 portion of Exhibit 206?

21 A. He was talking about what was required of  
22 SNM members that wanted to go to this drop-out unit,  
23 saying that they had to comply, which meant they had  
24 to give them information. He had also mentioned  
25 that Little Rabbit, who was a former member of the

1 SNM -- his name is -- I'm not sure of his name --  
2 his last name is Lopez, I believe, but I could be  
3 wrong. He's talking about how this guy legitimately  
4 tapped out, joined this program. And in doing so,  
5 he turned in a knife, which is a fierro. He's  
6 saying -- he went on to say that it was discussed  
7 amongst the brothers there that were with him; they  
8 should just all act like they want to renounce, with  
9 the purpose of getting sent to the drop-out unit and  
10 assaulting legitimate drop-out SNM members, which  
11 means when he says doing a desmadre.

12 Q. Now, I'm going to play you a portion of  
13 what's been admitted as Government's Exhibit 210.

14 (Tape played.)

15 Q. What is Mr. Herrera talking to you about  
16 in this part of conversation?

17 A. The first part of the conversation --  
18 well, I asked him -- or he asked me if I remember  
19 it. I may have asked him; whatever is said on the  
20 recording. There was an incident in the county  
21 jail, BCDC, when he attempted to assault an inmate  
22 that was in the shower by hitting him with a broom  
23 stick. He was unsuccessful in that incident.

24 The second part of the conversation, he  
25 went on to say that he finally got Kevin Blanco,

1 which was -- he was not an SNM member, but always  
2 seemed to find himself disrespecting SNM members,  
3 just by his disrespectful conversation towards SNM.

4 Q. And as part of the SNM, if someone  
5 disrespects an SNM member, what does the SNM do?

6 A. They do their best to assault the  
7 individual if the chance presents itself.

8 Q. And when he says they dropped the  
9 shackles, "and it was on, man," what does that mean  
10 to you?

11 A. Well, he was shackled in his room. For  
12 some reason they took off the shackles -- or -- this  
13 is a lockup facility where you're constantly  
14 shackled. He was in belly irons, like I am here.  
15 He had the broom in his room. When he said he  
16 dropped the shackles, that means he lowered them  
17 below his waist, to where he had free access with  
18 his arms and his hands. And he assaulted or  
19 attempted to assault; or in that case, that was the  
20 second incident, he assaulted Kevin Blanco in the  
21 van. Is that what you're talking about?

22 Q. Yes, thank you.

23 (Tape played.)

24 Q. What does a PC move mean?

25 A. A PC move means that -- some people can



1 say it means that he did something in front of a  
2 cop.

3 Q. I'm going to play you another clip from  
4 what's been admitted as Government's Exhibit 210.

5 (Tape played.)

6 Q. What are you talking about in this  
7 conversation?

8 A. In the beginning of the conversation, he's  
9 talking about the last time he did a piece of  
10 Suboxone, it was tiny; that he had trouble injecting  
11 it, so he just snorted it. Then he goes on to  
12 explain that he used to have a syringe.

13 Q. What does "pluma" mean?

14 A. A pluma is a homemade syringe that you use  
15 to inject drugs.

16 Q. And what is he saying happened to it?

17 A. He's saying that he lent it to whoever.  
18 He lent it out, and since he lended it out, he had  
19 to clean it. He had to disinfect it once he got it  
20 back, which is why he put it in the hot pot. He's  
21 saying he put it in the hot pot to disinfect it with  
22 hot water. He forgot it was in there, poured out  
23 the water in the toilet, flushed the toilet, and  
24 lost his pluma, lost his syringe.

25 Q. Where you said, "Nah, all I got to do is

1 get the needle part," what do you understand that to  
2 mean?

3 A. That meant all he needed was the needle  
4 portion of any syringe in order to start the process  
5 of making a homemade syringe.

6 (Tape played.)

7 Q. What do you understand Mr. Herrera to mean  
8 when he says, "I'm surprised. I thought they were  
9 gonna come over here and something was going to be  
10 firme"?

11 A. He thought that he was going to go over  
12 there to that unit, and there was going to be lots  
13 of drugs, or drugs period. He thought it was going  
14 to be good firme. And there were no drugs.

15 Q. I'm now going to play portions of what's  
16 been admitted as Government's Exhibit 208.

17 (Tape played.)

18 Q. In this conversation, are you and Mr.  
19 Herrera talking about bringing in drugs through  
20 contact visits?

21 A. We're talking about -- yes, we are.

22 Q. And he said he would take off the little  
23 screw to the screen and put a straw through. That's  
24 all that fits, is a straw; you can't do nothing like  
25 that. Did you understand him to mean that someone

1 was taking off the screen during a contact visit and  
2 bringing in drugs through that straw through the  
3 screen?

4 A. Yes. He explained that that's how drugs  
5 were being brought into the facility.

6 (Tape played.)

7 Q. And right there where he says, "My ruca  
8 bought the set," what is a ruca?

9 A. A ruca is his old lady, his wife, or his  
10 girlfriend bought the set; means she's the one that  
11 purchased the set of Allen wrenches which fit the  
12 security screws.

13 (Tape played.)

14 Q. In that portion of the conversation, what  
15 is Mr. Herrera saying that he did down in Southern,  
16 in Cruces, four years ago?

17 A. He's talking about in the South facility  
18 visiting room, that he took a piece of metal, a  
19 sharpened piece of metal, to make a hole in the  
20 window so that Mariano, which is either his brother  
21 or his father-in-law, could pass him drugs.

22 Q. Did he get drugs that way?

23 A. According to the conversation there, he  
24 did.

25 Q. I'm going to play you another portion of

1 Exhibit 208.

2 (Tape played.)

3 Q. So in this conversation, Mr. Herrera says,  
4 "That fucker was getting squina like fuck." What  
5 does that mean?

6 A. That he was getting a lot of help from the  
7 free world, from the streets, obtaining drugs.

8 Q. All right.

9 (Tape played.)

10 Q. When Mr. Herrera is talking about pictures  
11 and bringing in pictures, what do you understand him  
12 to mean?

13 A. We were talking about a method that's used  
14 to obtain drugs into the facility, to sneak them in  
15 through the mail. They're hidden inside a picture.

16 (Tape played.)

17 Q. In that portion of the conversation, what  
18 do you understand Mr. Herrera to be talking about?

19 A. He mentioned that Shorty had sold him some  
20 drugs, that they were waiting on these drugs through  
21 the mail. When it arrived in the mail room, it  
22 got -- it was detected, because there was nothing  
23 written on the pieces of paper that were sent in in  
24 the envelope. They were just circles or scribbles.  
25 So they looked closer at the piece of paper, and it

1 got busted. And he got written up as a result. And  
2 that's what he's saying.

3 Q. When SNM members get drugs into the  
4 facility, do they then sell those drugs?

5 A. They either sell them, if there's enough,  
6 or they do them themselves. You can't get a lot of  
7 drugs through the mail or through pictures. So you  
8 would usually -- I mean, if he chose to, he could  
9 sell a portion of it. But mainly he did it for  
10 himself. I mean, he used the drugs. Now, if you  
11 got a large portion, which you can get more drugs by  
12 removing the screws and passing multiple straws  
13 filled with contraband, you can get more drugs that  
14 way, and you would have some to sell.

15 (Tape played.)

16 Q. What is Mr. Herrera -- what do you  
17 understand Mr. Herrera to be talking about in that  
18 portion of the conversation?

19 A. At the beginning of the conversation, he  
20 was saying that there was a lot of drugs in Las  
21 Cruces.

22 On the second portion of the question, he  
23 referred to the viejo when he was talking about  
24 Julian, that he was getting help from my wife, and  
25 that he was getting it through the mail on the seal.

1 He would place it on the seal, he's describing, and  
2 it was placed on the seal where you lick it, and it  
3 was working.

4 (Tape played.)

5 Q. And in this part of the conversation, what  
6 do you understand Mr. Herrera to be talking about?

7 A. At the beginning of the conversation he is  
8 talking about a different method that he's never  
9 tried, but a different method introducing contraband  
10 into the facility was -- he explained it as using a  
11 humidifier. I didn't really -- I'd never seen it  
12 done. He stated that he's never used that method.  
13 But basically, he's talking about a different method  
14 that people are using.

15 Q. What about when you say, "That ruca gives  
16 him a lot of squina, no," and he says, "Well, yeah,  
17 he was. He was getting at least one a week, one  
18 every two weeks."

19 A. We ran into -- I'm talking about Julian  
20 and my ex-wife. I asked him, "So that ruca," my  
21 wife, "is giving him squina, huh?"

22 And he says, "Yes, he gets two subs a week  
23 from her."

24 Q. When you asked him about the county jail,  
25 and he says, "Yeah, you know, it was fucked up,"

1 what are you talking about? What happened in the  
2 county jail?

3 A. Say that again. When he says what?

4 Q. When you asked him, "Well, yeah, I used to  
5 do the same in the county jail for us, us,  
6 remember?"

7 And he says, "Yeah, you know," what are  
8 you talking about, "in the county jail"?

9 A. I was talking about that my wife used to  
10 do the same thing for me. I brought it to the  
11 attention -- he was there with me in the county  
12 jail, and I'm saying she used to do that for us,  
13 too; remember?

14 Q. Did you give Mr. Herrera a part of the  
15 drugs that your wife brought to you when you were in  
16 the county jail?

17 A. Yes, I did.

18 (Tape played.)

19 Q. In that portion of the conversation where  
20 Mr. Herrera says, "We were getting them in Cruces.  
21 Come over here, and I was all happy, handle  
22 business, fucking per visit," what do you understand  
23 Mr. Herrera to be talking about in that portion of  
24 the conversation?

25 A. The first part of what you mentioned,

1 while he was in Cruces, he was getting a lot of  
2 drugs. He was getting a lot of Suboxone.

3 The second part was?

4 Q. The second part, where he says, "I was all  
5 happy, handle business, fucking per visit."

6 A. He was all happy to handle business, which  
7 meant he obtained the drugs. Once he obtained the  
8 drugs, he was happy to handle business, which meant  
9 either selling them or doing them. But mostly  
10 selling them, handle business.

11 (Tape played.)

12 Q. In that portion of the conversation where  
13 he says, "I'll schedule one. Don't even mention  
14 nothing and I'll do it, nah, be out like fuck, I'll  
15 do it, nah," what do you understand him to be  
16 telling you in that portion of the conversation?

17 A. He's saying he'll schedule a visit to  
18 attempt to smuggle in drugs, and for me not to say  
19 anything to anybody else.

20 (Tape played.)

21 Q. In that portion of the conversation when  
22 he's talking about the photos and the envelope, is  
23 that, again, talking about methods of smuggling  
24 Suboxone into Cruces?

25 A. Yes, he is.



1 Q. I'm going to play you portions from what's  
2 been admitted as Government's Exhibit 214.

3 Did you and Mr. Herrera discuss the Javier  
4 Molina murder?

5 A. Yes, we did.

6 Q. Did he tell you what his position was in  
7 the pod at Southern New Mexico at the time of the  
8 Molina murder?

9 A. He stated, yes, he did.

10 Q. What did you understand his position to be  
11 here at Southern New Mexico Correctional Facility?

12 A. Someone that was in touch with Pup, and so  
13 he had a position of authority.

14 Q. So did you understand him to be someone  
15 who had an authority position in the pod?

16 A. Yes, I did.

17 Q. Was that a leader of the pod?

18 A. Yes, that's a leader of the pod.

19 Q. All right. I'm going to play, as I said,  
20 a portion of what's been admitted as Government's  
21 Exhibit 214.

22 (Tape played.)

23 Q. In this portion of the conversation, who  
24 do you understand Mr. Herrera to be referring to as  
25 Spider?

1 A. He's an SNM Gang member, a brother.

2 Q. Do you know his real name, Spider?

3 A. David Calbert.

4 Q. And who do you understand him to be  
5 referring to as Critter?

6 A. Critter is an individual by the name of --  
7 I don't know his name.

8 Q. Is he an SNM member?

9 A. Yes, he's an SNM member.

10 Q. All right. And what are you and Mr.  
11 Herrera talking about in this portion of the  
12 conversation?

13 A. He's talking about people that he's  
14 concerned about who he thinks would give information  
15 on the Molina murder. He states that as far as  
16 David Calbert thinks, he's down, they won't get any  
17 information from him.

18 As far as -- we went on to Critter and  
19 Chris Garcia.

20 Q. And are Critter and Chris Garcia SNM  
21 members?

22 A. Yes, they are SNM members.

23 (Tape played.)

24 Q. At this time, are you talking about --  
25 well, let me ask this question: What does "chafa"

1 mean?

2 A. "Chafa" means no good, chafa.

3 Q. And what does it mean to say that someone  
4 is chafa or no good within the SNM?

5 A. It refers to certain people, that he's no  
6 good in the SNM standings; he's chafa.

7 Q. And what is -- I think you said that means  
8 chafa, that they're working with the juras. What  
9 does that mean?

10 A. As far as Benjamin Clark, he's a member of  
11 the SNM. Alonzo, which is -- I don't know his last  
12 name, but these are brothers that were on the  
13 indictment. And he's saying that since they were  
14 already at the tapout unit, that they're no good;  
15 that he was concerned about them saying whatever  
16 they knew.

17 Q. And the tapout unit -- is that the unit  
18 that we heard, just a few minutes ago, you and he  
19 referring to when people drop out and give up their  
20 fierros, or information?

21 A. Yes.

22 Q. So he also mentioned Arturo, aside from  
23 Alonzo and Benjamin. Who is Arturo?

24 A. Arturo is another SNM member.

25 (Tape played.)

1 Q. In that portion of the conversation, who  
2 do you understand Mr. Herrera to be referring to as  
3 Baby Rob?

4 A. He's talking about Robert Martinez,  
5 another SNM Gang member.

6 Q. And under the SNM rules, what's required  
7 of an SNM member in good standing if an SNM member  
8 encounters someone who either went to the dropout  
9 unit or who is cooperating with law enforcement?

10 A. He's expected to assault him.

11 Q. I'm going to play for you another portion  
12 of Exhibit 214.

13 (Tape played.)

14 Q. What are you and Mr. Herrera talking about  
15 in this conversation?

16 A. At the end of the conversation he was  
17 talking about Red, which is someone that was charged  
18 with the killing of Mr. Molina.

19 Q. Are you talking about the Javier Molina  
20 murder?

21 A. Yes, I am.

22 Q. And when you say he's talking about Red,  
23 do you understand him to be talking about Red at the  
24 top here, where he says "because he was always  
25 kicking it with that vato, and that was his friend"?

1           A.     He was saying that he was a friend of  
2     Javier Molina; that he was always with him. They  
3     were close. They were always secretive when they  
4     got to the yard, when they went in the yard.

5           Q.     And where he says, "That's the reason why  
6     that fucker went," what do you understand him to  
7     mean by that?

8           A.     That's why -- that's a reason why they  
9     used him to kill Javier Molina, to show his loyalty.

10          Q.     And by "they," do you mean the SNM?

11          A.     Yes, the SNM.

12          Q.     All right. And then where Mr. Herrera  
13     says, "Yeah, JR went because that didn't m another  
14     fucking killing two birds with one stone," who do  
15     you understand Mr. Herrera to be referring to as JR?

16          A.     JR is another individual that was charged  
17     with the Molina murder. His name is Jerry Montoya.

18          Q.     And what do you understand him to mean  
19     when he says, "Yeah, because there's paperwork  
20     supposedly on JR"?

21          A.     He's indicating that there was paperwork  
22     on JR.

23                     (Tape played.)

24                     MR. BECK: Your Honor, may I approach?

25                     THE COURT: You may.

1 MR BECK: May I approach the witness, Your  
2 Honor?

3 THE COURT: You may.

4 BY MR. BECK:

5 Q. Mr. Archuleta, I'm handing you what's been  
6 marked for identification purposes as Government's  
7 Exhibits 651, 652, and 653. Please tell me if you  
8 know who is depicted in those photographs.

9 A. That's Pup, a long time ago when he was a  
10 lot younger.

11 Q. And are these fair and accurate  
12 representations of Mr. Anthony Ray Baca a long time  
13 ago when he was a lot younger?

14 A. Yes. That's the Pup I know.

15 MR. BECK: Your Honor, the United States  
16 moves into admission Government's Exhibits 651, 652  
17 and 653.

18 THE COURT: Any objection?

19 MR. VILLA: No, Your Honor.

20 MS. BHALLA: No, Your Honor.

21 MR. LOWRY: May we approach?

22 THE COURT: You may.

23 (The following proceedings were held at  
24 the bench.)

25 MR. LOWRY: Your Honor, I'm just not clear

1 that he's put a foundation, that he's aware of the  
2 timeframe that these were taken, or was incarcerated  
3 with him during that period of time.

4 THE COURT: I once went out to Acoma  
5 Pueblo and took the long trip up to the top. And  
6 the lady told all the stories about the church up  
7 there, on and on and on, about these stories. And I  
8 asked her, I said, "When did all these occur?"

9 She looked at me and said, "Long ago."

10 I guess this is kind of where you are.

11 MR. LOWRY: Exactly.

12 MS. DUNCAN: I guess the other objection  
13 we have is why we need three different photos of Mr.  
14 Baca. These are mugshots from over 20 years ago.

15 THE COURT: Let me look at them.

16 MR. BECK: What I'm trying to do -- we got  
17 from Mr. Archuleta that he hasn't been incarcerated  
18 with Mr. Baca for some substantial period of time.  
19 And I intend to show him these pictures, and then  
20 show him the pictures that have been admitted, and  
21 see if he can then identify --

22 THE COURT: Well, since he was unable to  
23 identify him in court, I think we may not have an  
24 exact date in these pictures.

25 MR. LOWRY: Those are the dates.

1 MS. DUNCAN: Your Honor, if it's only for  
2 that purpose, we would stipulate to Mr. Baca's  
3 identity.

4 THE COURT: I'll let the Government put on  
5 its case the way they want to. I think these are  
6 admissible. He's given enough of a foundation.

7 (The following proceedings were held in  
8 open court.)

9 THE COURT: All right. Government's  
10 Exhibits 651, 652, and 653 will be admitted into  
11 evidence.

12 (Government Exhibit 651, 652, and 653  
13 admitted.)

14 BY MR. BECK:

15 Q. Mr. Archuleta, I'm going to show you  
16 what's now been admitted as Government's Exhibit  
17 651. Who is in this photograph?

18 A. Pup, Ray Baca, when he was a lot younger.

19 Q. And I know you're looking that way, but  
20 when you talk, Mr. Archuleta, if you'll speak into  
21 the microphone so we can hear you.

22 A. That's Pup, Ray Baca, when he was a lot  
23 younger.

24 Q. And Government's Exhibit 652. Who is in  
25 this photograph?



1           A.     That's Pup, Ray Baca, when he was a lot  
2 younger.

3           Q.     All right. Now, Government's Exhibit 653.  
4 Who is in that photograph?

5           A.     That's Pup, Ray Baca, when he was a lot  
6 younger.

7           Q.     I'm going to show you what's been admitted  
8 as Government's Exhibit 495. Who is depicted in  
9 this photograph?

10          A.     That's Carlos Herrera -- no, it's Ray  
11 Baca, without his mustache.

12          Q.     Government's Exhibit 496. Is that again  
13 Mr. Baca?

14          A.     Yes, that's Ray Baca.

15          Q.     And is this the same Ray Baca that you've  
16 been telling us about during your testimony this  
17 afternoon, who was a leader, and I think you said  
18 your Big Homie in the SNM?

19          A.     Yes, sir.

20          Q.     And now that you've seen those  
21 photographs, do you see this Mr. Baca, who you've  
22 been talking to the jury about throughout your  
23 testimony today -- do you see him in the courtroom?

24          A.     Yes, I do.

25          Q.     And where is he?

1           A.     He's right in front of me with the blue  
2     suit, and maybe it's a white shirt. I was unable to  
3     see him before, because that lady was sitting right  
4     in front of him. With the shaved head, that's Ray  
5     Baca.

6                   MR. BECK: Let the record reflect Mr.  
7     Archuleta identified the Defendant Anthony Ray Baca.

8                   THE COURT: The record will so reflect.

9                   MR. BECK: May I have a moment, Your  
10    Honor?

11                  THE COURT: You may.

12                  MR. BECK: Pass the witness.

13                  THE COURT: Mr. Lowry, do you have  
14    cross-examination of Mr. Archuleta?

15                  MR. LOWRY: May it please the Court.

16                  THE COURT: Mr. Lowry.

17                               CROSS-EXAMINATION

18    BY MR. LOWRY:

19                  Q.     Good afternoon, Mr. Archuleta.

20                  A.     Good afternoon.

21                  Q.     Mr. Archuleta, you've never removed a  
22    green light for anyone, have you?

23                  A.     No.

24                  Q.     And that includes Julian Romero.

25                  A.     That's correct.

1 Q. Now, I want to talk to you a little bit  
2 about Julian Romero. You testified on direct that  
3 he had slept with your wife and that's why you put a  
4 green light on him?

5 A. Correct.

6 Q. But he actually developed a long-term  
7 relationship with your wife, didn't he?

8 A. Yes, he did.

9 Q. They still live together today?

10 A. That's correct.

11 Q. And you've never canceled the green light  
12 put on him in 2001?

13 A. No, I haven't.

14 Q. Now, it's fair to say, is it not, that the  
15 dispute between you and Mr. Romero over your -- I  
16 don't know, did you refer to Lilly as your former  
17 wife?

18 A. Yes. Yes, sir.

19 Q. That caused a deep division within the SNM  
20 Gang?

21 A. Yes, it did.

22 Q. And that contributed to a lot of bad  
23 politics within the gang?

24 A. Sides formed: Those on Julian's side and  
25 those on my side.

1 Q. And those were pretty deep divisions, were  
2 they not?

3 A. Yes, they were.

4 Q. And in fact, it rose to the level where  
5 people on one side wanted to kill people on the  
6 other side because of their allegiance to either you  
7 or Mr. Romero?

8 A. Repeat the question.

9 Q. Sure. It led to the point where people  
10 tried to kill each other because of their allegiance  
11 to either you or Mr. Romero?

12 A. Yes.

13 Q. And in fact, you tasked or ordered  
14 Frederico Munoz to go kill Julian just over this,  
15 over your former wife?

16 A. Yes, that's correct.

17 Q. But that was just the beginning of the  
18 feud, if you will?

19 A. Yes, that's correct.

20 Q. Because -- let me back up for a second.  
21 We kind of didn't really touch upon this on direct,  
22 but I want to explore it a little bit. You didn't  
23 find out about Mr. Romero's relationship to your  
24 wife until you were charged with the murder of  
25 Matthew Cavalier; isn't that right?

1           A.     There was no relationship with Julian  
2 Romero prior to the Cavalier death. And the  
3 relationship happened while we were in the county  
4 jail facing the murder of Matthew Cavalier. That's  
5 when I became aware of it, yes.

6           Q.     Because you were trying to task Mr. Romero  
7 with killing a witness in that case, Kelly Mercer.

8           A.     Yes.

9           Q.     And you were calling Lilly to try to set  
10 that up?

11          A.     I was communicating -- we communicate  
12 through our -- whoever comes to see us to pass on  
13 messages through the streets. So I wasn't calling  
14 her, but she was visiting me. I asked her to locate  
15 Julian, and we were trying to set that up.

16          Q.     But that's how you found out about it,  
17 because there was never any follow-through by Mr.  
18 Romero to help you out with that.

19          A.     Yes. That's when I found out about it.

20          Q.     And it's also contributed to Lilly not  
21 seeing you as often at the jail?

22          A.     That's correct.

23          Q.     And when she didn't see you, you couldn't  
24 have drugs smuggled in to you, like we were talking  
25 about all on your direct examination.

1 A. That's correct.

2 Q. And that upset you?

3 A. It upset me that -- that didn't bother me.  
4 What upset me is that that's the Number 1 rule in  
5 the organization: A brother does not mess around  
6 with another brother's wife. And he violated that  
7 rule. And there's consequences for breaking such a  
8 rule.

9 Q. Right. So you just didn't take it  
10 personally; you thought it was disrespectful to the  
11 S.

12 A. Yes, he violated a rule of the S.

13 Q. And to make sure, to try to effectuate  
14 your hostility towards Mr. Romero, you actually went  
15 to the tabla at that time and got sanctioned to kill  
16 Mr. Romero?

17 A. What's "effectuate"?

18 Q. Well, you wanted to kill Mr. Romero;  
19 correct?

20 A. Yes.

21 Q. And you were in jail?

22 A. Yes.

23 Q. You couldn't move around a lot?

24 A. Right.

25 Q. You wanted other people to help you carry

1 out that hit?

2 A. Yes.

3 Q. And so you went to other people in the SNM  
4 to say, "I need your assistance to pull this off."

5 A. Yes. Not before getting approval from  
6 Angel Munoz, who was the leader at that time.

7 Q. Right. And you and Angel were fast  
8 friends?

9 A. Yes, we were.

10 Q. And Angel had given you the keys when he  
11 left the prison system?

12 A. Yes.

13 Q. He wanted you to run the show?

14 A. Yes.

15 Q. He wanted you to call the shots.

16 A. Yes.

17 Q. You were the leader.

18 A. Yes.

19 Q. And in fact, you got out of prison for a  
20 brief period of time before you were arrested in the  
21 Cavalier murder; correct?

22 A. Yes.

23 Q. And you were working with Angel Munoz on  
24 the streets selling crack cocaine.

25 A. Yes, I was.

1 Q. And according to you, you were selling 5  
2 to 10 ounces of crack cocaine a week.

3 A. If that, yes.

4 Q. And in fact, that's why you were put back  
5 in the Bernalillo County Detention Center, because  
6 you tested dirty for a urine.

7 A. I tested dirty. I was using drugs.

8 Q. And you violated your probation.

9 A. Yes.

10 Q. And so they pulled you back in, and said,  
11 "You're spending a weekend with us here at the  
12 county jail."

13 A. Yes, sir.

14 Q. And it was during that weekend that  
15 Matthew Cavalier was brought inside the jail.

16 A. That's correct.

17 Q. And that's when you developed a plan to  
18 kill Matthew Cavalier.

19 A. That's correct. We were recognizing the  
20 green light on him, and we developed a plan.

21 Q. All right. I want to come back to that.  
22 But once you got approval from Angel Munoz to kill  
23 Julian Romero, two people were tapped to go pull  
24 that off: Frederico Munoz and -- who was it --  
25 Shiman Pacheco?



1 A. Yes.

2 Q. And they went over, heavily armed, to kill  
3 him.

4 A. Yes, they did.

5 Q. And they had a mini 14 rifle?

6 A. I don't know what kind of gun they had.

7 Q. You don't recall what kind of gun they  
8 had?

9 A. It was a pistol, according to Freddie  
10 Munoz.

11 Q. Because it was a pistol, they had to get  
12 pretty close to Julian to try to shoot him?

13 A. Yes, that's correct.

14 Q. And so they pulled up in the driveway to  
15 make that happen?

16 A. They pulled up in front of the house.  
17 They were on the street.

18 Q. Right. And that's when Mr. Pacheco  
19 started yelling at Frederico Munoz, "Shoot him,  
20 shoot him."

21 A. Yes.

22 Q. And he started spraying bullets all around  
23 the house?

24 A. Yes.

25 Q. And they didn't hit Lillian or the young

1 man that was there, but they hit Mr. Romero in the  
2 leg.

3 A. Yes.

4 Q. But you weren't satisfied, because he  
5 didn't die; correct?

6 A. That's correct.

7 Q. You wanted him dead?

8 A. That's correct.

9 Q. And the fact that you wanted to continue  
10 with that hit just deepened the divisions within the  
11 SNM politically, amongst the Archuleta branch and  
12 the Romero branch.

13 A. Yes.

14 Q. And it got so bad that another SNM member,  
15 Billy Garcia, tried to arrange a meeting with you to  
16 call it off.

17 A. I don't think that's correct.

18 Q. Well, Billy Garcia came over to your house  
19 to talk to you about the hit; correct?

20 A. That had already taken place, yes.

21 Q. Well, no; that you wanted him killed.

22 A. The conversation with me and Billy was  
23 after Julian had gotten shot.

24 Q. Right. After he got shot.

25 A. Yes.

1 Q. And Billy came to your house?

2 A. Yes.

3 Q. And Billy said, "We got to cut this out.  
4 This is personal."

5 A. Well, I'm the one who arranged the  
6 sit-down. The sit-down was about Julian. I  
7 explained to Billy that he should have been the one,  
8 as a high-ranking member, to express to the brothers  
9 that Julian messed up, violated a rule. And he  
10 didn't do that.

11 I went on to say that "It's already gotten  
12 to the point where either you're with me or you're  
13 against me." That was the end of the conversation,  
14 and he left.

15 Q. And Mr. Garcia didn't say he was with you,  
16 did he?

17 A. Mr. Garcia -- excuse me? Say that again?

18 Q. Mr. Garcia came to your house; correct?

19 A. Oh, yes. Billy, yes.

20 Q. And he wanted to talk to you specifically  
21 about Julian Romero.

22 A. Yes.

23 Q. And what he said to you was: "This is a  
24 personal beef. Cut it out. Leave the S out of it."

25 A. Yes.

1 Q. And you said, "No, this is S business."

2 A. Yes.

3 Q. "This is disrespectful to the rules, the  
4 reglas of the organization."

5 A. Yes.

6 Q. And you guys couldn't resolve your  
7 differences.

8 A. No.

9 Q. And in fact, he left, and the whole issue  
10 was unresolved.

11 A. Yes.

12 Q. And so the divisions, the political  
13 divisions, within the SNM continued.

14 A. Yes.

15 Q. But Mr. Garcia wasn't pleased with your  
16 perspective about Mr. Romero.

17 A. I would say that he wasn't pleased that --  
18 I mean, this is a high-ranking SNM member. Usually  
19 what he says goes. And when the hit wasn't dropped  
20 and Julian was assaulted, which he wanted the hit to  
21 be dropped, he felt very disrespected.

22 Q. Right. And because you didn't show any  
23 loyalty to Billy Garcia, he ordered you to be  
24 killed.

25 A. That's correct.

1 Q. And in fact, he sent his nephew to the  
2 methadone clinic afterwards to try to kill you.

3 A. Yes, sir.

4 Q. And that's Baby Zack?

5 A. Yes, sir.

6 Q. And Baby Zack knew you were getting  
7 methadone at the clinic because he knew you were  
8 trying to kick heroin?

9 A. Yes, sir.

10 Q. And so he showed up on San Mateo, knowing  
11 you would be there to pick up methadone.

12 A. That's correct.

13 Q. And he confronted you.

14 A. That's correct.

15 Q. And he said, "I'm going to take you out."

16 A. Yes, sir. He pulled out a gun on me and  
17 said he was going to take me out.

18 Q. And your response to that was, you went  
19 and got armed?

20 A. Yes, sir.

21 Q. You went and got a pistol.

22 A. Yes, sir.

23 Q. And you showed up at the methadone clinic  
24 the next time armed with a 9 millimeter pistol?

25 A. Yes, sir.

1 Q. And Baby Zack showed up to do what he said  
2 he was going to do: Take you out.

3 A. Yes, sir.

4 Q. And you beat him to the draw, so to speak.

5 A. Yes, sir.

6 Q. And you shot him.

7 A. Yes, sir.

8 Q. And you shot up the parking lot a bit.

9 A. Yes, sir.

10 Q. Okay. And you were arrested for that.

11 A. Yes, sir.

12 Q. And you were prosecuted for that and pled  
13 guilty for that.

14 A. Yes, sir.

15 Q. So you weren't happy about going back to  
16 prison, were you?

17 A. No, I wasn't happy about going back to  
18 prison. I wasn't happy that they just tried to kill  
19 me and that everybody involved were fellow gang  
20 members of the S.

21 Q. Right. But my point being is: All of  
22 that was related to Julian Romero.

23 A. Yes, sir.

24 Q. And you never called off the green light?

25 A. No, I didn't.

1 Q. Is it fair to say that the Gerald  
2 Archuleta camp was perhaps in the minority?

3 A. "The minority" means like greater than?

4 Q. Well, less than.

5 A. That's not fair to say at all.

6 Q. So you had spoke about the SNM branching  
7 out into different groups: Your group with your  
8 followers; correct?

9 A. Yes, sir.

10 Q. And then there was another group that were  
11 led by Billy Garcia?

12 A. Yes, sir.

13 Q. And then there's even a third group that  
14 was led by Marty Barros; right?

15 A. Yes, sir.

16 Q. So out of the three groups, Billy Garcia  
17 supported Julian Romero.

18 A. He was -- yes, he supported Julian Romero.

19 Q. And Marty Barros supported Julian because  
20 he was an old-timer?

21 A. No, Marty Barros did not support Julian  
22 Romero.

23 Q. But even you would agree with me that  
24 those political divides created havoc within the  
25 internal structure of the SNM?

1 A. Yes.

2 Q. Because you never know who was trusting  
3 who?

4 A. That's correct.

5 Q. Now, you talked on direct about  
6 drug-smuggling into prison facilities. And I want  
7 to touch on that, because we just heard a whole  
8 bunch of audiotape about it.

9 A. Yes, sir.

10 Q. One thing you didn't mention, you said the  
11 easiest way was through contact visits; is that  
12 right?

13 A. That would be correct.

14 Q. But another way, which you didn't talk  
15 about, was convincing correctional officers to  
16 smuggle drugs in for you.

17 A. That would be another way, yes.

18 Q. And you're familiar with that technique?

19 A. Yes, I am.

20 Q. Okay. And now I want to talk to you a  
21 little bit about your first arrest and your first  
22 trip to prison. And you talked about it on direct,  
23 about the accidental shooting of your cousin.

24 A. Yes, I did.

25 Q. And that was after you discharged the



1 sawed-off shotgun to help out your uncle.

2 A. I don't understand the question.

3 Q. Okay. Well, you were talking about your  
4 very first arrest, when I believe you were around 18  
5 or 19, in 1988, '86?

6 A. Yeah, robbery conviction. Was it a  
7 robbery conviction?

8 Q. No. This was the discharge of the weapon  
9 that killed your cousin.

10 A. Okay.

11 Q. And you testified on direct examination  
12 that you were contemplating suicide.

13 A. Yes.

14 Q. But you were joking with your cousins  
15 about committing suicide, weren't you?

16 A. I don't think I was joking. I was  
17 distressed by just hearing that I may have killed  
18 someone. My intention wasn't to kill anybody with a  
19 sawed-off shotgun. I intended to spray them with  
20 pellets, and I was depressed.

21 Q. You were going to spray your cousin with  
22 pellets?

23 A. No, there was a shooting prior to that.

24 Q. Right, where you were purportedly  
25 protecting your uncle from the people that were

1 harassing him.

2 A. Yes.

3 Q. And you fired a sawed-off shotgun at them.

4 A. Yes.

5 Q. And your cousins actually thought,  
6 according to your direct testimony, that you may  
7 have killed one of the guys.

8 A. Yes.

9 Q. But you were never charged with that.

10 A. No.

11 Q. But do you remember writing a 24-page  
12 summary of your life within the SNM?

13 A. Yes.

14 Q. Okay. And do you remember writing on page  
15 1 of that summary, "I was joking around with Ruben  
16 about committing suicide"?

17 A. I don't recall.

18 Q. Pardon me?

19 A. I don't.

20 MR. LOWRY: May I approach, Your Honor?

21 THE COURT: You may.

22 A. Yes, I wrote that.

23 BY MR. LOWRY:

24 Q. Mr. Archuleta, this is your handwriting.

25 This is a document you created?

1 A. Yes.

2 Q. Okay. And that's exactly what it says,  
3 isn't it? "I was joking around with Ruben about  
4 committing suicide."

5 A. Yes, that's what it says.

6 Q. And you told Ruben, "I'm just kidding.  
7 I'm not ready to commit suicide."

8 And that's when you were lowering the gun,  
9 and it accidentally discharged.

10 A. Yes, that's apparently what I wrote, yeah.

11 Q. Right. Well, that's what happened, isn't  
12 it?

13 A. No. I was depressed with hearing the news  
14 that I was -- that I may have killed someone.  
15 That's how I remember it.

16 Q. Did anybody rush you when you were writing  
17 this?

18 A. No.

19 Q. Mr. Acee asked you to write it to give him  
20 your thoughts about your experiences growing up.

21 A. Yes.

22 Q. And you sat down at your leisure and wrote  
23 out this 24-page statement; correct?

24 A. Yes.

25 Q. And while you contemplated it in the

1 quietude of your cell, you actually wrote, "I was  
2 joking around with Ruben about committing suicide.  
3 And then I said, 'Not really'?"

4 A. Okay.

5 Q. So you were joking.

6 A. No, I wasn't joking. I think that's the  
7 story I used when I got to prison to save face in  
8 front of our SNM members. I couldn't say that I  
9 actually thought about committing suicide.

10 Q. Mr. Archuleta, you weren't writing this  
11 for the other SNM members, were you?

12 A. No, I wasn't.

13 Q. You were writing it for this gentleman  
14 over here with the FBI?

15 A. Right.

16 Q. Did you have to save face with him?

17 A. No, I don't.

18 Q. Did you have to make sure he -- did you  
19 have to mislead him about what really happened?

20 A. No.

21 Q. You understand it's a felony offense to  
22 lie to the FBI?

23 A. Yes.

24 Q. So you got a light prison sentence for the  
25 accidental discharge of the weapon that killed your

1 cousin.

2 A. I got the maximum penalty, which was  
3 involuntary manslaughter. It carried 18 months.

4 Q. And one extra year for a firearm  
5 enhancement.

6 A. Yes, sir.

7 Q. But under New Mexico law, you were out  
8 fairly quickly.

9 A. Yes.

10 Q. And the point I was getting at is: When  
11 you went into prison that first time, you wanted  
12 drugs.

13 A. Yes.

14 Q. You weren't an SNM member, were you?

15 A. No, I wasn't.

16 Q. You were just a regular inmate in the  
17 correctional department.

18 A. Yes, sir.

19 Q. You still wanted drugs.

20 A. I wanted drugs.

21 Q. And you convinced a correctional officer  
22 to bring marijuana in to you.

23 A. Yes, I did.

24 Q. And he did that routinely?

25 A. Yes.

1 Q. But in order to get the marijuana, he had  
2 to meet up with your girlfriend; right?

3 A. Yes, sir.

4 Q. And that was Frances Montano.

5 A. Yes, sir.

6 Q. And that's a woman you'd been dating since  
7 you were a teenager.

8 A. Yes, sir.

9 Q. And because they met so frequently, they  
10 struck up a romantic affair, didn't they?

11 A. Yes, sir. That was my first wife, yes,  
12 sir.

13 Q. And when you got out of prison, you went  
14 back home to meet her; correct?

15 A. Yes, sir.

16 Q. And you found out about the relationship.

17 A. Yes, sir.

18 Q. And that didn't make you happy, either,  
19 did it?

20 A. No, it didn't.

21 Q. And you wanted to kill her, when you got  
22 released, because you already had a sense about the  
23 relationship.

24 A. Yes, sir.

25 Q. And so you thought, as you went home, you

1 were going to kill her.

2 A. Yes, sir.

3 Q. But the icing on the cake is: When you  
4 got home to your grandmother's house, where you  
5 lived, you found out she was pregnant.

6 A. Yes, sir.

7 Q. With his child.

8 A. She said she may be pregnant, but didn't  
9 tell me whose child.

10 Q. And you didn't bother to find out.

11 A. No, I didn't.

12 Q. You strangled her to death.

13 A. Yes, I did.

14 Q. And you choked her.

15 A. Yes, I did.

16 Q. And you said once you got your hands  
17 around her neck, you knew you weren't going to let  
18 go until she was dead.

19 A. That's correct.

20 Q. And you killed her.

21 A. Yes.

22 Q. And then you hid her body in the closet in  
23 your grandmother's house.

24 A. I did not hide her body in the closet. I  
25 left her there on the floor.

1 Q. Again, you wrote this statement; right?

2 A. Yes.

3 Q. May I show you? May I refresh your  
4 recollection again?

5 A. Yes.

6 MR. LOWRY: May I approach, Your Honor?

7 THE COURT: You may.

8 BY MR. LOWRY:

9 Q. Mr. Archuleta, you would agree with me  
10 when you wrote this for the FBI, you wrote, "Without  
11 thinking and in rage, I grabbed her by the neck and  
12 started to choke her"?

13 A. Yes.

14 Q. "I knew I wasn't going to stop choking her  
15 until she was dead"?

16 A. Yes.

17 Q. "I then put her in the closet and left the  
18 house so that I could find some transportation";  
19 correct?

20 A. Yes.

21 Q. And then you went on to write, "But while  
22 I was gone, my grandmother found her and called an  
23 ambulance, but she was dead."

24 A. Yes.

25 Q. On direct examination, you told this jury



1 you left the house and you called the authorities to  
2 let the authorities know she was there. But that  
3 wasn't true, was it?

4 A. I did report -- I walked to the laundromat  
5 and called the authorities and reported the  
6 incident, yes.

7 Q. But your grandmother had called it in  
8 already.

9 A. I also had called it in.

10 Q. Okay. You didn't include that in your  
11 summary to the FBI, did you?

12 A. If it's not there, I didn't. But --

13 Q. And that was your second conviction that  
14 Mr. Beck talked about, in 1988?

15 A. Yes.

16 Q. You pled guilty to her murder.

17 A. Yes.

18 Q. And you got a four-year habitual offender  
19 sentence and a 12-year sentence for the murder?

20 A. Yes.

21 Q. But that didn't keep you in prison long  
22 either, did it?

23 A. I had to finish the sentence. I did the  
24 sentence.

25 Q. Right. But it wasn't anywhere close to 16

1 years.

2 A. It was maybe 11 or 12.

3 Q. No, you remember, that would have been in  
4 1988. You got out and then had probation  
5 violations.

6 A. Eleven years. I got out in '99. I  
7 believe '99, '98; 11 years. I did 11 years on a  
8 16-year sentence.

9 Q. And it was during those 11 years that you  
10 really truly got into prison culture and prison  
11 life.

12 A. Yes.

13 Q. And that's what led you to associate with  
14 the SNM?

15 A. Yes.

16 Q. Now, I want to talk to you about your  
17 entry into the SNM, because Mr. Beck talked to you  
18 about some of the benefits you were getting in your  
19 plea agreement; correct?

20 A. Yes.

21 Q. And he talked to you about the  
22 2,200-some-odd dollars that you got?

23 A. Yes.

24 Q. And that was for commissary and telephone  
25 and things like that?

1 A. Yes.

2 Q. And so you could communicate with your  
3 family?

4 A. Yes.

5 Q. Telephone calls, write letters?

6 A. Yes.

7 Q. But the real benefit that you're getting  
8 in this case isn't the commissary money, is it?

9 A. No.

10 Q. The benefit you're getting is the United  
11 States not prosecuting for all of the SNM activities  
12 that you talked about on direct, isn't it?

13 A. Yes.

14 Q. Because there were multiple stabbings.

15 A. That's correct.

16 Q. And there were a lot of attempted murders.

17 A. That's correct.

18 Q. And you were the moving force behind a lot  
19 of that.

20 A. That's correct.

21 Q. And in exchange for your testimony today,  
22 the United States agreed just to give you a  
23 three-year charge.

24 A. Yes, sir.

25 Q. And you're almost done with your time,

1 aren't you?

2 A. That's correct.

3 Q. You have less than a year to go.

4 A. That's correct.

5 Q. Do you know what your kickout date is?

6 A. I'm not sure. Three years would be  
7 December 2 of this year.

8 Q. And you get to do 85 percent of that time,  
9 so you get 50 days off a year.

10 A. I'm not getting no good time at all. As  
11 of now, I don't know if I'm getting any good time.

12 Q. So your lawyer hasn't explained that to  
13 you?

14 A. No.

15 Q. But it's a relatively short prison  
16 sentence, isn't it?

17 A. It's a three-year sentence, yes.

18 Q. And it surely isn't life in prison, is it?

19 A. No, it ain't.

20 Q. And when you met with the United States,  
21 they explained to you if you wanted to get charged  
22 in the RICO conspiracy, you could get life in  
23 prison, didn't they?

24 A. Yes.

25 Q. And rather than do that, you said you'd

1 tell them a story.

2 A. That I would cooperate in this RICO  
3 indictment.

4 Q. Now, let's go through some of the activity  
5 that the United States is willing to forgive you  
6 for, okay? So there was the very initial -- what  
7 you call the introductory stabbing of Chaparro;  
8 correct?

9 A. Yes. Would you say that again?

10 Q. Well, I believe you testified on direct  
11 that it was sometime shortly after you arrived at  
12 the facility you met with Phillip Cordova and Marty  
13 Barros in the chow hall in the Old Main?

14 A. Yes.

15 Q. And they said, "Do you want to become an  
16 SNM member?"

17 A. At that time I was already an SNM member,  
18 but --

19 Q. Do you remember that's what --

20 A. Yes.

21 Q. -- that's not what you put in your  
22 little --

23 A. Well, that's when I actually earned my  
24 bones.

25 Q. Right.

1           A.     But I had been considered a brother in the  
2     S for a little while before that, just hanging  
3     around the S and participating in daily SNM  
4     activity. I mean -- okay.

5           Q.     Right. But they said, "If you want to be  
6     a member, go stab Chaparro in the neck."

7           A.     Yes.

8           Q.     And you did.

9           A.     Yes.

10          Q.     You didn't think twice about it.

11          A.     Right.

12          Q.     And you tried to kill him.

13          A.     Yes.

14          Q.     And that's because he had shorted drugs to  
15     the SNM.

16          A.     Yes.

17          Q.     It wasn't just any drugs; it was heroin.

18          A.     Yes.

19          Q.     And so once he was stabbed, he was taken  
20     off line, he went into protective custody.

21          A.     Yes.

22          Q.     And that was the whole idea, to cull the  
23     herd, so to speak, getting rid of the weak?

24          A.     Yes.

25          Q.     And then you talked about the second one,

1 with Eddie Lopez.

2 And by the way, you're not going to get  
3 any time for that. You didn't get any time in the  
4 state court when that happened, did you?

5 A. No, I didn't.

6 Q. Nobody complained?

7 A. I did not get no time for it.

8 Q. No criminal charges?

9 A. No criminal charges.

10 Q. But the federal government could bring  
11 criminal charges for that, couldn't they?

12 A. No. I signed a Kastigar letter saying I  
13 couldn't be charged for anything that I would talk  
14 about the day that I started cooperating.

15 Q. Right. They gave you immunity for your  
16 sit-down statement for a single day.

17 A. With others, with others, other days when  
18 they needed to do follow-ups.

19 Q. As long as you were truthful.

20 A. Yes.

21 Q. But even that first day you met with the  
22 FBI, you weren't really truthful with them.

23 A. Why is that?

24 Q. Well, do you remember telling the FBI,  
25 when you met on January 21, that you were never a

1 formal leader of the SNM?

2 A. Yes.

3 Q. That was a lie, wasn't it?

4 A. Yes, I was downplaying my role. I just  
5 started cooperating. And I wasn't sure of the whole  
6 idea of cooperating, and I downplayed my role.

7 Q. But that was a lie, wasn't it?

8 A. Yes, that wasn't true.

9 Q. And again, you can be punished for lying  
10 to the FBI.

11 A. Yes.

12 Q. Remember, Martha Stewart went to prison  
13 for lying to the FBI.

14 A. Yes.

15 Q. But they didn't charge you with lying to  
16 them, did they?

17 A. No.

18 Q. Because they wanted your testimony?

19 A. Yes.

20 Q. Now, when you stabbed Eddie Lopez, you  
21 actually deceived him; right? Or you tricked the  
22 guard to make that happen?

23 A. No.

24 Q. Well, you worked in concert with another  
25 gentleman; correct?



1 A. Yes.

2 Q. And that gentleman distracted the guard so  
3 you could get close to Eddie Lopez and stab him?

4 A. Yes.

5 Q. And so your companion made Eddie Lopez  
6 more vulnerable by making sure he wasn't being  
7 observed or protected.

8 A. Yes.

9 Q. And you pulled that off.

10 A. Excuse me?

11 Q. And you stabbed him.

12 A. Yes.

13 Q. And got him out of there.

14 A. Yes.

15 Q. Just like Phillip Cordova wanted you to.

16 A. Yes.

17 Q. And again, you weren't charged for that.

18 A. No, I wasn't.

19 Q. And not even the federal government wants  
20 to charge you for that as part of a racketeering  
21 conspiracy.

22 A. That was part of the agreement before I  
23 started cooperating, according to the Kastigar  
24 letter.

25 THE COURT: Mr. Lowry, would this be a

1 good time for us to take our break?

2 MR. LOWRY: Sure, Your Honor.

3 THE COURT: All right. We'll be in recess  
4 for about 15 minutes.

5 (The jury left the courtroom.)

6 THE COURT: All right. We'll be in recess  
7 for about 15 minutes.

8 (The Court stood in recess.)

9 THE COURT: All right. We'll go on the  
10 record. Anything from the Government we need to  
11 discuss? Anything I can do for you?

12 MR. BECK: No, Your Honor.

13 THE COURT: What about you, Mr. Lowry?  
14 Anybody on the defense side?

15 (The jury entered the courtroom.)

16 THE COURT: Everyone be seated.

17 All right. Mr. Archuleta, I'll remind you  
18 that you're still under oath.

19 THE WITNESS: Yes.

20 THE COURT: Mr. Lowry, if you wish to  
21 continue your cross-examination of Mr. Archuleta,  
22 you may do so at this time.

23 MR. LOWRY: Thank you, Your Honor.

24 THE COURT: Mr. Lowry.

25

1 BY MR. LOWRY:

2 Q. Mr. Archuleta, after the -- and you  
3 stabbed Eddie Lopez; correct?

4 A. Yes.

5 Q. And again, ideally, you wanted to kill  
6 him?

7 A. No.

8 Q. You didn't want to kill him?

9 A. No, the objective was to remove him from  
10 the line. I stabbed him in the side twice.

11 Q. Just to get him out of there?

12 A. Just to remove him.

13 Q. Just sort of a gratuitous stabbing, just a  
14 "You don't belong here"?

15 A. Yes. So they could remove him from the  
16 line.

17 Q. And after that, you were transferred to  
18 the Southern facility down here in Las Cruces?

19 A. Yes.

20 Q. And you weren't a fan of Southern, were  
21 you?

22 A. No.

23 Q. Because you're from Albuquerque?

24 A. Yes.

25 Q. And your family is all there?

1 A. Yes.

2 Q. Living in Southern made it hard for you to  
3 communicate with your family.

4 A. Yes.

5 Q. And without family visits, days drag on  
6 endlessly.

7 A. Yes.

8 Q. And you developed a plan, a scheme, to get  
9 out of Southern, didn't you?

10 A. Yes.

11 Q. And you hatched that plan with another SNM  
12 member, Robert Martinez; correct?

13 A. Yes.

14 Q. And he's also known as Baby Rob; right?

15 A. Yes.

16 Q. And neither one of you wanted to be in  
17 Southern.

18 A. That's correct.

19 Q. You both wanted to be back in Santa Fe at  
20 the old facility.

21 A. That's correct.

22 Q. And in order to get there, you said,  
23 "Okay, we'll pick somebody out and assault them, so  
24 they ship us back north"; is that right?

25 A. That's correct.

1 Q. And in fact, there was -- another  
2 gentleman learned about your plan, Jesse Trujillo,  
3 and joined you in it.

4 A. That's correct.

5 Q. Because he wanted out of Southern, too.

6 A. Yes.

7 Q. So rather than work with the Department of  
8 Corrections, you guys thought you'd manipulate the  
9 system to get what you wanted out of it.

10 A. That's correct.

11 Q. And the plan was: Well, at this point,  
12 there is some tension between SNMers and the Aryan  
13 Brotherhood guys; right?

14 A. That's correct.

15 Q. And in fairness, you said the Aryan  
16 Brotherhood was a white gang. But the Aryan  
17 Brotherhood is really a White Supremacist gang,  
18 isn't it?

19 A. That's correct.

20 Q. It's really hard to like a White  
21 Supremacist, isn't it?

22 A. After the war started at the main  
23 facility, yes, that's correct. I'm not sure -- when  
24 I was in Cruces, I don't think the war had started  
25 by then. I'm not sure.

1 Q. Okay. But you knew that they were easy  
2 pickins in terms of, if you had to assault somebody  
3 on the yard, going after an AB guy, nobody is going  
4 to complain?

5 A. Right. What I'm saying is: I don't think  
6 we hit him because he was AB. Our plan was to, from  
7 what I remember.

8 Q. But you singled out a white guy that had  
9 been convicted of a rape charge.

10 A. Yes.

11 Q. So he was a two-fer. He was a white guy  
12 with a sexual offense.

13 A. Yes.

14 Q. So nobody was going to bat an eye about  
15 assaulting this guy.

16 A. Right.

17 Q. And the plan was: You were going to,  
18 again, come at him from different angles, correct,  
19 on the yard?

20 A. That's correct.

21 Q. And you took a rock, a good-sized rock,  
22 and hid it under your arm.

23 A. That's correct.

24 Q. And you were going to smash him in the  
25 face.

1 A. That's correct.

2 Q. And Jesse Trujillo, once he was hit, was  
3 going to stab him.

4 A. That's correct.

5 Q. And then Robert Martinez was just going to  
6 pile on and help beat him up.

7 A. That's correct.

8 Q. It didn't quite go as planned, did it?

9 A. No.

10 Q. Because when -- you concealed the rock;  
11 correct?

12 A. Yes.

13 Q. And when you got close enough to where you  
14 thought you could strike him in the face, you threw  
15 it at him, but missed.

16 A. That's correct.

17 Q. And he didn't even see the rock as it  
18 whizzed by him.

19 A. That's correct.

20 Q. But it didn't stop Jesse Trujillo. He  
21 still ran up and stabbed the guy.

22 A. Yes.

23 Q. And Robert Martinez jumped in and started  
24 beating him up, as well.

25 A. That's correct.

1 Q. And at that point, guards come rushing in,  
2 correct, to the yard?

3 A. Yes, that's correct.

4 Q. And you guys took off.

5 A. That's correct.

6 Q. The only one that got picked up was Mr.  
7 Trujillo, right, on the assault?

8 A. Yes.

9 Q. So the first attempt to get back to Santa  
10 Fe was foiled, because it didn't really go as  
11 planned.

12 A. Yes.

13 Q. So you had to pick out another person?

14 A. Yes.

15 Q. And you picked out another white guy?

16 A. That's correct.

17 Q. And to make sure you were successful this  
18 time, you picked up a baseball bat.

19 A. That's correct.

20 Q. And you and Robert Martinez attacked him.  
21 This time you had a baseball bat.

22 A. That's correct.

23 Q. And you took him out.

24 A. I assaulted him.

25 Q. And in your little story here, you say,



1 "Robert punched him and took him to the ground, and  
2 I hit him with the bat a couple of times. And we  
3 were busted in the act, and we were on our way back  
4 to Santa Fe."

5 A. That's correct.

6 Q. And you actually have a little smiley face  
7 next to that.

8 MR. LOWRY: May I turn on the Elmo just  
9 for demonstrative purposes, Your Honor?

10 THE COURT: You may.

11 MR. LOWRY: Your Honor, may we approach?

12 (The following proceedings were held at  
13 the bench.)

14 MR. LOWRY: I want to use it for  
15 demonstrative purposes. The witness has identified  
16 this writing as his own. It's a very accurate  
17 depiction of his writing. And I just want to show  
18 the jury that it has a smiley face, that he was  
19 actually happy that he attacked somebody.

20 MR. BECK: I mean, it's hearsay. It's an  
21 out-of-court statement. We don't show jurors  
22 out-of-court hearsay.

23 THE COURT: What are you trying to do?  
24 What is this?

25 MR. LOWRY: This is his diary, for lack of

1 a better word, his life as an SNM --

2 THE COURT: I think you can impeach him  
3 with it, but I don't think you can put that in front  
4 of the jury in any form, like on an Elmo or  
5 anything.

6 MR. LOWRY: Okay, all right.

7 (The following proceedings were held in  
8 open court.)

9 THE COURT: Mr. Lowry.

10 BY MR. LOWRY:

11 Q. So it was mission accomplished for you;  
12 right?

13 A. Yes.

14 Q. And you're happy?

15 A. Yes.

16 Q. And you were happy that you got shipped  
17 back to Santa Fe; correct?

18 A. Correct.

19 Q. And it didn't matter to you that you had  
20 to assault two people to get there?

21 A. No.

22 Q. And again, nobody charged you criminally  
23 for either assault?

24 A. No, sir.

25 Q. Now, when you get back to Santa Fe, this

1 is the era, if you will, where the tensions start  
2 erupting between the SNM and the Aryan Brotherhood.

3 A. Yes.

4 Q. And in fact, during this process, they're  
5 closing down the Old Main; correct?

6 A. Yes.

7 Q. And they're shipping people to what we've  
8 called throughout these proceedings the PNM North  
9 facility and PNM South facility?

10 A. Yes.

11 Q. And they're all part of the Santa Fe  
12 complex?

13 A. That's correct.

14 Q. And you were in the Old Main with two  
15 leaders of the Aryan Brotherhood?

16 A. That's correct.

17 Q. Right. And you were with John Price and  
18 some other guy. You didn't know whose name it was,  
19 but it might have been Tree?

20 A. Tree. He was from Utah. They called him  
21 Tree. I don't know his real name.

22 Q. And you guys wanted to take them out.

23 A. Yes.

24 Q. And this time was for real. You wanted to  
25 stab him and really take him out.

1 A. Yes.

2 Q. So you guys got shanks; correct?

3 A. Yes.

4 Q. And at this time there is no tier time;  
5 they sort of let everybody out at once; correct?

6 A. That's correct.

7 Q. You guys ganged up and attacked both John  
8 Price and Tree?

9 A. That's correct.

10 Q. And stabbed them repeatedly?

11 A. That's correct.

12 Q. Tried to kill them?

13 A. That's correct.

14 Q. Fortunately for them, you weren't  
15 successful, were you?

16 A. No, we weren't.

17 Q. But the effort was put in.

18 A. That's correct.

19 Q. And for that, they moved you from the Old  
20 Main facility to the South facility?

21 A. That's correct.

22 Q. And what timeframe was this? Was this mid  
23 '90s?

24 A. I would say around there, '97, something  
25 like that.

1 Q. Now, when you get to PNM South -- Level 5;  
2 right?

3 A. Yes.

4 Q. -- Junior is in charge.

5 A. Yes.

6 Q. He's the llavero.

7 A. That's correct.

8 Q. And Junior's name is Leroy Torrez; right?

9 A. That's correct.

10 Q. And what is Leroy Torrez infamous for?  
11 What did Leroy Torrez start, if you will?

12 A. Well, at that time he didn't start --  
13 after the fact, at that time there was no All Star  
14 gang. He didn't start the All Star gang until after  
15 he was assaulted.

16 Q. Okay. Is that what precipitated him  
17 coming up with the idea of the All Stars, is you  
18 taking Junior out when you got to the South  
19 facility?

20 A. No, sir.

21 Q. Okay. But you didn't want him in charge?

22 A. No, sir.

23 Q. And by this time, from your trip down to  
24 Southern, you'd become fast friends with Angel  
25 Munoz?

1 A. Yes.

2 Q. Who was the undisputed leader of the SNM?

3 A. Yes, sir.

4 Q. And you contacted Angel and said, "We need  
5 to take this guy out."

6 A. No, that's not correct.

7 Q. Well, did you not plot against him?

8 A. Yes, that's correct. As soon as I got to  
9 the South facility, brothers were bringing to my  
10 attention that -- how he was very disrespectful  
11 towards brothers. And the issue was brought up to  
12 Marty Barros. He was -- from that point on, he was  
13 expected to step down, which he did not do.

14 Q. And you went to Marty Barros because he  
15 was there in Santa Fe?

16 A. He was in Santa Fe, yes.

17 Q. And Angel Munoz is down at Southern;  
18 correct?

19 A. Yes.

20 Q. So Marty Barros is the most senior person  
21 to talk to?

22 A. Yes, at that time, in Santa Fe.

23 Q. And you wanted to get Marty Barros'  
24 approval to do this.

25 A. Yes.

1 Q. Because you didn't want to be on the outs  
2 with anybody.

3 A. Because why?

4 Q. Because you didn't want to be on the outs  
5 with anybody. You didn't want to be adverse to  
6 Marty Barros.

7 A. You have to get permission or approval for  
8 an assault on a former -- on a member of the SNM.  
9 So I got approval from Marty Barros.

10 Q. Except Julian Romero was an exception;  
11 right? You didn't have to get permission from  
12 anybody to call the hit on Julian Romero.

13 A. No. It was approved by Angel Munoz.

14 Q. Right. But just not Marty.

15 A. Anything coming from Angel was the same as  
16 coming from Marty.

17 Q. So you got approval?

18 A. Yes.

19 Q. You stabbed Leroy Torrez.

20 A. I did not. I wasn't at the facility, but  
21 it was carried out.

22 Q. But you participated in the planning of  
23 that.

24 A. Yes, that's correct.

25 Q. You might not have participated in the

1 actual assault on Mr. Torrez, but you set the whole  
2 thing up.

3 A. That's correct.

4 Q. You set it in motion.

5 A. That's correct.

6 Q. You made sure it happened.

7 A. That's correct.

8 Q. You orchestrated it.

9 A. That's correct.

10 Q. Now, with Leroy Torrez out of the way, you  
11 were fully in charge of the Southern, PNM South.

12 A. That's correct.

13 Q. And that's, what, '95, '96?

14 A. '98.

15 Q. '98?

16 A. Somewhere around there.

17 Q. And this is where you resume -- now, it's  
18 a full-fledged war with the Aryan Brotherhood by  
19 this time.

20 A. Yes, sir.

21 Q. And you resumed attacks on the Aryan  
22 Brotherhood.

23 A. That's correct.

24 Q. And you wanted to get a little more  
25 splashy about it, so you guys planned a double



1 assault.

2 A. Yes.

3 Q. And it was sort of a decoy assault:

4 Assault one guy in the pod, so all the COs come  
5 rushing in; and then somebody else can take out  
6 another Aryan Brotherhood where security is more  
7 lax.

8 A. That's how it was performed. But they  
9 were both Aryan Brotherhood.

10 Q. Right.

11 A. Yes.

12 Q. And you selected them specifically because  
13 of that.

14 A. Yes, sir.

15 Q. And they were stabbed.

16 A. Yes.

17 Q. And you tried to kill them both, or the  
18 plan was to kill them both.

19 A. That's correct.

20 Q. And again, you were never prosecuted for  
21 those attempted murders.

22 A. No, sir.

23 Q. And the federal government said they were  
24 going to overlook that and give you a three-year  
25 sentence in exchange for your testimony.

1           A.    Yes, sir.  I received three years.  But I  
2   received a death sentence from the S at the same  
3   time.

4           Q.    We'll get to that.

5                   Now, at this point, Department of  
6   Corrections is a bit fed up; correct?

7           A.    That's correct.

8           Q.    So they sent you -- they think, We're  
9   going to get rid of Gerald Archuleta.  We're going  
10   to send him over to the eastern plains.  They're  
11   going to send you to Hobbs.

12          A.    That's correct.

13          Q.    But when you get to Hobbs, there are still  
14   people that you know that belong to the SNM there.

15          A.    That's correct.

16          Q.    And lo and behold, John Price, the Aryan  
17   Brotherhood gentleman that you attacked in the Old  
18   Main, is there.

19          A.    That's correct.

20          Q.    And you so think, Hey, I can take care of  
21   unfinished business.

22          A.    That's correct.

23          Q.    And so with John Price and another guy,  
24   Robert -- how do you say that?

25          A.    Hanrahan.

1 Q. Hanrahan. And you guys make the plan to  
2 attack these guys yet again.

3 A. That's correct.

4 Q. And you try to kill John Price.

5 A. Yes, assault him.

6 Q. Well, you stabbed him.

7 A. Yeah, stabbed him.

8 Q. Beat him with a broom.

9 A. There's the possibility that he could have  
10 died, yes.

11 Q. Well, I mean, that's sort of the purpose  
12 of the war with the Aryan Brotherhood, to dominate  
13 them; correct?

14 A. That's correct.

15 Q. You wanted everybody to know that you're  
16 going to dominate them.

17 A. That's correct.

18 Q. You wanted to kill them.

19 A. That's correct.

20 Q. Because you wanted the prestige.

21 A. Because there was a green light. It  
22 wasn't about the prestige. It was about the green  
23 light that had been set on the Aryan Brotherhood.  
24 It was the war. There was a war between the SNM and  
25 the Aryan Brotherhood. And as an SNM Gang leader, I

1 was expected to retaliate every chance I got against  
2 the Aryan Brotherhood.

3 Q. So you tried to kill him.

4 A. I guess that's correct.

5 Q. Him and Robert Hanrahan.

6 A. That's correct.

7 Q. And you were never charged with that.

8 A. No, sir.

9 Q. And the federal government said, "We're  
10 not going to charge you with it either."

11 A. That's correct.

12 Q. "And instead, you'll get a three-year  
13 sentence."

14 A. That's correct.

15 Q. Now, that's the despite multiple stabbings  
16 and assaults -- and that's 10 -- New Mexico  
17 Department of Corrections paroled you to the streets  
18 of Albuquerque; correct?

19 A. No.

20 Q. No?

21 A. No, they paroled me. I paroled to  
22 Tennessee.

23 Q. No, but this is in 2000.

24 A. Okay, yes. I paroled. Yeah, I paroled to  
25 Albuquerque.

1 Q. And this is when you're out on the  
2 streets; correct?

3 A. Yes.

4 Q. And Angel Munoz is out on the streets;  
5 right?

6 A. Yes.

7 Q. And you guys are doing your thing with  
8 crack.

9 A. Yes.

10 Q. And this is when you tested dirty in 2001,  
11 and you go to BCDC, and the whole incident with  
12 Matthew Cavalier happens.

13 A. That's correct.

14 Q. And that's what really precipitated the  
15 Julian Romero division.

16 A. Yes.

17 Q. I want to talk about the Matthew Cavalier  
18 incident for a moment, because again, you used a bit  
19 of deception to kill Mr. Cavalier, didn't you?

20 A. Yes, sir.

21 Q. Because you went in thinking you were  
22 going to do a three-day weekend in the local county  
23 jail; correct?

24 A. That's correct.

25 Q. But when Matthew Cavalier comes in, you

1 and everybody else that was affiliated with SNM  
2 thought: We have business to take care of.

3 A. Yes, sir.

4 Q. And everybody knew Matthew Cavalier was a  
5 snitch.

6 A. Yes, sir.

7 Q. And snitches get stitches.

8 A. Snitches get killed.

9 Q. Right. That's the rule.

10 A. That's the rule.

11 Q. But you didn't want Matthew Cavalier to  
12 think that, did you?

13 A. No, sir.

14 Q. And Matt came to you and asked you for a  
15 pass.

16 A. Yes, sir.

17 Q. And you made him think he was going to get  
18 a pass.

19 A. Yes, sir.

20 Q. And you told him, "Hey, if you put in some  
21 work for us here at the MDC, we can work this out."

22 A. That's correct.

23 Q. And it's kind of awkward, because  
24 initially Matt was your celly, wasn't he?

25 A. Yes, that's correct.

1 Q. You didn't want him to be your celly.

2 A. No, I didn't.

3 Q. You didn't want him near you.

4 A. No, I didn't.

5 Q. So you had the COs move him out of your  
6 cell.

7 A. That's correct. Or I moved to another  
8 cell.

9 Q. You moved out and left him there.

10 A. Yes.

11 Q. But you went and told Matt, "Hey, we're  
12 going to have a little get-together tonight. Let's  
13 party."

14 A. That's correct.

15 Q. And you met up just before the final count  
16 for the night, around 10:00, to do some heroin.

17 A. Or to smoke some cigarettes, I think.

18 Q. A little bit of -- well, you did a shot of  
19 heroin earlier in the evening.

20 A. I don't recall. I know that we went into  
21 the room to smoke some cigarettes with him. We were  
22 doing heroin at the time, also.

23 Q. Would it refresh your recollection to look  
24 at your statement?

25 A. No, I don't need the recollection.

1 Q. So you were doing heroin with Matthew  
2 Cavalier that evening?

3 A. Yes.

4 Q. And you wanted him to relax around you  
5 guys?

6 A. Yes.

7 Q. So you thought you'd party a little bit;  
8 correct?

9 A. Correct.

10 Q. And then you said, "Hey, before final  
11 count, let's get together and we'll smoke some  
12 cigarettes."

13 A. Yes, correct.

14 Q. And so there were you and Roy Martinez,  
15 Shadow; correct?

16 A. Correct.

17 Q. And a couple of other gentlemen met him at  
18 his cell.

19 A. Correct.

20 Q. And who were the other gentlemen? Was --

21 A. Francisco Villalobos. His name is Paco.  
22 Roy Martinez; his name is Shadow. And Big Rabbit is  
23 Samuel Silva.

24 Q. And the Mercers, Kelly and Johnny Mercer?

25 A. They were in the pod.



1 Q. So they weren't really part of the plan;  
2 they just happened to be there observing.

3 A. Yes.

4 Q. And you and Silva and Munoz go in to smoke  
5 cigarettes with Matthew Cavalier.

6 A. Who is Munoz?

7 Q. Well, pardon me. Frederico. Isn't it  
8 Playboy?

9 A. Yes.

10 Q. No, pardon me. Roy Martinez. Pardon me.

11 A. Yes. Me, Roy Martinez, Francisco  
12 Villalobos, and Samuel Silva went into the room with  
13 Matt and Kelly to smoke some cigarettes.

14 Q. And when you entered into the room, you  
15 guys had already developed a plan to kill him.

16 A. That's correct.

17 Q. And you knew exactly who was going to do  
18 what when you entered the room.

19 A. That's correct.

20 Q. And you don't smoke cigarettes.

21 A. No, sir.

22 Q. You were assigned the lookout.

23 A. Yes, sir.

24 Q. It was your idea to take Matthew out.

25 A. It was. There was a recognized green

1 light on him, and we knew what we had to do.

2 Otherwise, if we didn't honor the green light, it  
3 could have been held against us later on.

4 Q. But you were the most senior there.

5 A. Right. I wasn't in the position to call  
6 off a green light from Marty Barros, so I carried  
7 out the green light.

8 Q. So you kept watch; correct?

9 A. Yes.

10 Q. Outside the cell. Made sure nobody came,  
11 no guards were coming.

12 A. Yes.

13 Q. And you gave them the thumbs up.

14 A. Yes.

15 Q. And once they finished their cigarette,  
16 somebody puts Matthew Cavalier in a bearhug; right?

17 A. Yes.

18 Q. And somebody grabs his feet?

19 A. That's correct.

20 Q. And then Roy Martinez takes a piece of a  
21 bedspread and strangles him.

22 A. That's correct.

23 Q. And you guys thought he had killed him;  
24 correct?

25 A. That's correct.

1 Q. And you left him there and covered him up.

2 A. That's correct.

3 Q. You heard -- about 30 minutes later, you  
4 figured out, oh, that didn't really work. He's  
5 still alive.

6 A. Yes.

7 Q. And so you had to go back in the room and  
8 reattack him.

9 A. Yes.

10 Q. And at that time, you guys broke his neck  
11 to make sure he was dead.

12 A. Yes.

13 Q. Okay. And you covered up his body.

14 A. His body was covered up.

15 Q. And nobody in the pod mentioned it.

16 A. No.

17 Q. And you went through successive counts.  
18 The guards came around and just thought he was  
19 sleeping.

20 A. Yes.

21 Q. It wasn't until the next day that somebody  
22 called home and said, "You won't believe it, but  
23 there's this dead guy in the pod here and nobody  
24 knows about it."

25 A. That's correct.

1 Q. And they called the news channel, and the  
2 news channel had to call the jail to say that they  
3 had a dead body in there.

4 A. That's correct.

5 Q. That's how deceptive you guys were, that  
6 nobody inside the institution knew he was dead. The  
7 word had to come from outside.

8 A. Other than those in the pod, that's  
9 correct.

10 Q. Those involved.

11 A. Those involved, and everybody else that  
12 was in the pod. That's correct.

13 Q. Now, at this time you were good friends  
14 with Jake Armijo.

15 A. That's correct.

16 Q. Jake Armijo was one of those guys that was  
17 in the Gerald Archuleta camp.

18 A. That's correct.

19 Q. Jake Armijo was an enforcer for the Gerald  
20 Archuleta camp.

21 A. That's correct.

22 Q. And you wanted to get -- after everything  
23 blew up and you guys knew you were facing criminal  
24 charges for Matthew Cavalier's death and you knew  
25 Kelly Mercer was going to testify, you wanted to get

1 Jake Armijo --

2 A. That's not correct.

3 Q. What --

4 A. That was another incident with --

5 Q. That was Baby Zack?

6 A. That was Baby Zack, yes. We were trying  
7 to get -- when we were in jail facing the murder for  
8 Moscow, Kelly Mercer was a witness.

9 Q. This is when you wanted to get Julian.

10 A. Julian was supposed to take care of that.

11 Q. But Julian was too busy falling in love  
12 with your wife.

13 A. That's how it started, yes.

14 Q. And it didn't happen.

15 A. And it didn't happen.

16 Q. And you ended up having to plead guilty to  
17 conspiracy to commit second-degree murder.

18 A. Yes, sir.

19 Q. Now, pretty interesting, in a statement  
20 you gave to the FBI on May 8, 2017, you said you'd  
21 always gotten the maximum penalty.

22 A. That's correct.

23 Q. But this particular plea agreement that we  
24 looked at earlier, this wasn't a second-degree  
25 murder. I mean, you guys had planned this out.

1 A. That's correct.

2 Q. So you didn't get a first-degree murder,  
3 did you?

4 A. No, we didn't.

5 Q. And somebody talked the district  
6 attorney's office into lowering the charge to  
7 second-degree murder; correct?

8 A. That's correct.

9 Q. And even then, they suspended all of that  
10 time. The only time you got in your original  
11 judgment and sentence was the four years for an  
12 habitual offender charge.

13 A. I don't believe that's correct. I think I  
14 pled guilty to conspiracy to second-degree murder,  
15 which carried a certain amount of years, which I  
16 got; and the four-year habitual, which I got.

17 Q. Can we pull up --

18 A. I'm not sure exactly how much time I got.  
19 But that's what I pled guilty for, and that's the  
20 time I got.

21 Q. Can we go to page Bates No. 8874?  
22 Government's Exhibit 246.

23 Okay. So this is the judgment and  
24 sentence for the Matthew Cavalier homicide?

25 A. Yes, it is.

1 Q. And we can flip over to the next page.  
2 We'll blow up the top.

3 So you see on the top paragraph here that  
4 says you've agreed, and the Court imposes --  
5 Mr. Archuleta is also sentenced to a mandatory four  
6 years pursuant to the habitual offender statute, for  
7 a total term of imprisonment of 10 years, of which  
8 six years of the sentence shall be suspended, for an  
9 actual term of imprisonment of four years.

10 A. Okay. You're right.

11 Q. And the judge had his hands tied. You had  
12 to get four years for the habitual offender charge.

13 A. That's correct.

14 Q. So all of the other time was waived in  
15 your original judgment and sentence.

16 A. Apparently, from that, yes.

17 Q. So you really wouldn't characterize this  
18 as a maximum penalty under law, would you?

19 A. According to that, no.

20 Q. So for a first-degree murder charge, you  
21 got a four-year sentence.

22 A. Yes. That's correct.

23 Q. Now, at this point you go back in, and  
24 this whole situation with Julian Romero is actively  
25 in your mind; correct?

1 A. That's correct.

2 Q. And it's at this point where you ordered  
3 the green light on Julian while you're in prison.

4 A. That's correct.

5 Q. And we talked about this before -- and I  
6 won't rehash it -- but that's when you hired  
7 Frederico Munoz to go shoot him.

8 A. I didn't hire him.

9 Q. Ordered him to do it.

10 A. Yes.

11 Q. You didn't have to hire him; he would just  
12 do it on your word.

13 A. Yes.

14 Q. And like we talked about earlier,  
15 ultimately, you did that four-year stint, you timed  
16 that number out pretty quickly, and got out on  
17 probation.

18 A. That's correct.

19 Q. That's when you tested dirty?

20 A. That's correct.

21 Q. And had the whole kerfuffle with Baby Zack  
22 at the methadone clinic.

23 A. That's correct.

24 Q. So if we look back at just the assaults  
25 and the stabbings that you just talked about in your



1 letter, your diary of the SNM, that's 12, I believe  
2 12 different assaults, none of which you were  
3 prosecuted for.

4 A. That's correct.

5 Q. And despite that lengthy history of  
6 violence, the United States is willing to waive all  
7 of that and give you a three-year sentence?

8 A. That's correct.

9 Q. And that's a really powerful benefit,  
10 wasn't it?

11 A. That's correct.

12 Q. It far exceeds the 2200-some-odd dollars  
13 you received from letter-writing and telephone  
14 privileges?

15 A. That's correct.

16 Q. Because three years is much better than a  
17 lifetime in prison.

18 A. That's correct.

19 Q. In addition to that, you're allowed to see  
20 your father, at least one contact visit.

21 A. That's correct.

22 Q. And extended telephone privileges.

23 A. That's correct.

24 Q. More liberty than one would normally have  
25 in the Department of Corrections.

1 A. That's correct.

2 Q. And you're scheduled to get out this year.

3 A. Yes.

4 Q. In just a few months.

5 A. Ten months.

6 Q. Now, I wanted to talk to you about a  
7 comment that you had made during the direct  
8 testimony. And you said something to the effect  
9 that you had never seen or heard of anyone bragging  
10 about something they didn't do as part of the SNM.

11 A. I didn't recall.

12 Q. You don't recall it? You don't recall  
13 that?

14 A. I didn't recall. I recall me saying that  
15 I just didn't recall ever seeing anybody brag about  
16 something they did and which they didn't do.

17 Q. All right. Or somebody taking credit for  
18 something they didn't do.

19 A. That's correct.

20 Q. But do you remember -- I mean, as part of  
21 your cooperation with the United States, you agreed  
22 to wear a wire; right?

23 A. That's correct.

24 Q. And you were aware -- because you had the  
25 tablet; right? You got the discovery in this case

1 and you got to look at all the investigatory  
2 techniques used by the FBI?

3 A. I don't believe at that time we had  
4 received the tablet yet.

5 Q. But my question is: Ultimately you got a  
6 tablet; correct?

7 A. Oh, yes. Yes.

8 Q. And you got to see all the discovery in  
9 this case.

10 A. Yes.

11 Q. And you got to learn who was wearing wires  
12 and who had wiretapped phones?

13 A. Yes.

14 Q. And before you became a government  
15 informant, Tomas Clark had recorded you on a wiretap  
16 phone; correct?

17 A. Correct.

18 Q. And do you recall talking to Tomas Clark  
19 about a young kid bragging to you that he was  
20 brought into the SNM by Gerald Archuleta?

21 A. I don't recall. Every time they called  
22 me, I'd been drinking. But if that was on the call,  
23 then.

24 MR. LOWRY: May I approach, Your Honor?

25 THE COURT: You may.

1 MR. LOWRY: May I approach, Your Honor?

2 A. Yes, I remember that. I don't remember  
3 our phone conversation, but I remember that incident  
4 at the methadone clinic.

5 BY MR. LOWRY:

6 Q. Okay. And this incident is what sounds  
7 like some younger individual coming up to you.

8 A. He was brought to me by --

9 Q. Boxer?

10 A. Boxer, yes.

11 Q. And who is Boxer?

12 A. Boxer is a brother of the SNM.

13 Q. Do you know his real name?

14 A. His last name is Amador. I don't recall  
15 his first name.

16 Q. But this kid -- I say "kid." I don't know  
17 how old he is. How old was he?

18 A. I have no idea.

19 Q. But he approaches you and he tells you --  
20 introduces himself to you as an SNM member?

21 A. No.

22 Q. Well, he introduced himself and said  
23 Gerald Archuleta brought him into the SNM.

24 A. Boxer approached me and he said, "Hey,  
25 there is this guy over here. I want you to meet

1 him. He said that Gerald Archuleta brought him in."

2 Q. Right.

3 A. And he wasn't aware that I was Gerald  
4 Archuleta.

5 Q. Right. And did you have a conversation  
6 with him?

7 A. I had a conversation talking with Boxer,  
8 yes.

9 Q. Brief. But you knew that that hadn't  
10 happened.

11 A. Yes. I didn't know the individual.

12 Q. At all.

13 A. At all.

14 Q. You didn't recognize him at all.

15 A. No.

16 Q. So that's an example of somebody sort of  
17 bragging about bona fides that they didn't really  
18 have; isn't that true?

19 A. He was claiming to be S, and apparently he  
20 wasn't, yeah.

21 Q. And are you also aware of a  
22 circumstance -- I guess this would have been in  
23 the -- well, probably, the mid 2000s, when Billy  
24 Baca called you up because he'd given a guy named  
25 Popeye a hotshot?

1           A.     Yes, sir. His name -- it wasn't Billy  
2 Baca; it was Billy something. They called him  
3 Daffy. But he was a Billy. We just got the last  
4 name mixed up.

5           Q.     But in your report you wrote Billy Baca.

6           A.     Right.

7           Q.     But that wasn't correct?

8           A.     No. I thought his last name was Baca.  
9 But apparently, later on, I find out that his name  
10 ain't Baca.

11          Q.     But anyway, this is after you put the hit  
12 out on Julian Romero; right?

13          A.     Yes.

14          Q.     And Billy Baca knew, like a lot of people  
15 did, that Julian Romero was from the Barelás  
16 neighborhood in Albuquerque.

17          A.     Yes.

18          Q.     And it's fair to say that in the people  
19 that followed Gerald Archuleta in the SNM, the  
20 Barelás neighborhood became disfavored.

21          A.     Yes.

22          Q.     And Billy Baca thought he could do you a  
23 favor by killing people from the Barelás  
24 neighborhood.

25          A.     Yes.

1 Q. And in fact, he did that.

2 A. He claimed to have done that.

3 Q. Well, he not only claimed to have done  
4 that, but he did kill Popeye with a hotshot.

5 A. I don't believe so.

6 Q. Okay. Well, did Billy Baca call you after  
7 he escaped from the trunk of a car --

8 A. Yes.

9 Q. -- and he would have been kidnapped  
10 because of the hotshot he had given Popeye?

11 A. Yes.

12 Q. And that's what you wrote to the FBI in  
13 your report to them?

14 A. Yes.

15 Q. You weren't lying to the FBI, were you?

16 A. Well, what I believe is that Billy Baca  
17 was partying with Popeye. He found him dead, and  
18 later claimed that he did it for Gerald Archuleta to  
19 gain respect. But there was never a green light on  
20 Popeye. And I never ordered a hit on Popeye.  
21 Popeye was not -- I do not believe -- given a  
22 hotshot. He OD'd on heroin. If you know Popeye,  
23 he's known for OD'ing everywhere he goes.

24 Q. But my point is -- we'll just call him  
25 Billy Baca, since --

1 A. Yes.

2 Q. Billy Baca was bragging about something  
3 that he really didn't do.

4 A. Exactly.

5 Q. So you are aware of people bragging --

6 A. Well, now that you bring it to my  
7 attention, yes.

8 Q. Well, you brought it to my attention.

9 A. I didn't recall -- I didn't remember  
10 Billy.

11 Q. Are you having trouble recalling?

12 A. I didn't remember Billy bragging about  
13 doing this incident.

14 Q. But you wrote about it.

15 A. Yes.

16 Q. You wrote about it in September of 2017.

17 A. Right.

18 Q. Now you testified on direct about --

19 A. When you brought it to my attention, like  
20 now, now I remember.

21 Q. Right. So people have to bring things to  
22 your attention for you to remember them.

23 A. Sometimes.

24 Q. Now, you were asked on direct examination  
25 about the allegation that you wanted to murder



1 Darren White.

2 A. No. I never wanted to murder Darren  
3 White.

4 Q. You were asked about it on direct  
5 examination.

6 A. If I wanted to kill Darren White? That's  
7 not true. I've never said that I wanted to kill  
8 Darren White.

9 Q. Right. But you testified on direct: When  
10 you were in that lifestyle, you want people to think  
11 you can call a hit on a sheriff.

12 A. Yes, that's correct.

13 Q. And that's bragging about something you  
14 didn't really do, isn't it?

15 A. Yes, that's correct.

16 MR. LOWRY: Your Honor. May I have a  
17 moment?

18 THE COURT: You may.

19 BY MR. LOWRY:

20 Q. A couple quick questions, Mr. Archuleta.  
21 In your most recent debrief with the United States,  
22 you talked about your drug use.

23 A. Yes.

24 Q. And you would agree with me that you  
25 purchased drugs from a number of the other

1 cooperating witnesses in this case, or people that  
2 are working with the United States?

3 A. That's correct.

4 Q. And would you agree with me that Benjamin  
5 Clark has supplied you with Suboxone?

6 A. That's correct.

7 Q. And that Jerry Montoya has supplied you  
8 with Suboxone?

9 A. That's correct.

10 Q. And that Timothy Martinez has supplied you  
11 with Suboxone?

12 A. That's correct.

13 Q. And that Roy Martinez has supplied you  
14 with Suboxone?

15 A. That's correct.

16 Q. And all of this is during a period of time  
17 where you're supposed to be demonstrating to the  
18 people at this table that you're an honest,  
19 truthful, and law-abiding person.

20 A. That's right.

21 Q. And you also testified that you moved to  
22 Tennessee because you wanted to get away from the  
23 SNM lifestyle.

24 A. That's correct.

25 Q. But isn't it true that during this time

1 you put a hit order out on Vincent Garduno?

2 A. No.

3 Q. You don't think --

4 A. Well, no, I didn't put a hit on him.

5 Q. You were upset with Mr. Garduno for not  
6 supplying you with drugs in Tennessee.

7 A. Yes, for sending me -- yes.

8 Q. And so you couldn't quite give up the  
9 lifestyle in total, could you?

10 A. No.

11 Q. And you were dependent on Mr. Garduno to  
12 send you drugs.

13 A. Yes.

14 Q. Because the drugs in Tennessee are a lot  
15 more expensive compared for New Mexico, which is a  
16 border state.

17 A. Yes.

18 Q. And did Mr. Garduno short you?

19 A. He sent me an empty package.

20 Q. And that made you upset?

21 A. Yes.

22 Q. And you wanted to hurt him?

23 A. I sent someone to go talk to him.

24 MR. LOWRY: No further questions, Your  
25 Honor.

1 THE COURT: Thank you, Mr. Lowry.  
2 Mr. Villa -- oh, Ms. Bhalla, do you want  
3 to go?

4 MS. BHALLA: Thank you, Your Honor.

5 THE COURT: Ms. Bhalla.

6 CROSS-EXAMINATION

7 BY MS. BHALLA:

8 Q. Good afternoon, Mr. Archuleta.

9 A. Good afternoon.

10 Q. Mr. Beck asked you some questions on  
11 direct examination about what I would refer to as  
12 institutional knowledge. Do you know what that  
13 means?

14 A. Would you explain?

15 Q. Sure. I think he asked you about it in  
16 the context of an assault. Okay? And after an  
17 assault in the SNM -- and you can think of any  
18 assault that we've discussed today, okay -- is it  
19 fair to say that the facts of that assault become  
20 known to other members of the SNM?

21 A. Yes.

22 Q. And so who did what to whom and when  
23 becomes common knowledge for SNM members; is that  
24 fair to say?

25 A. Yes.

1 Q. And that's because people talk about it,  
2 don't they?

3 A. Yes, ma'am.

4 Q. And they don't have much else to do  
5 besides talking; is that right?

6 A. That's correct.

7 Q. So that's what they're going to talk  
8 about; is that fair to say?

9 A. Yes, ma'am.

10 Q. Were you in custody when Javier Molina was  
11 murdered?

12 A. I don't believe so. I think I was in  
13 Tennessee.

14 Q. Okay. So you weren't there?

15 A. No.

16 Q. So you didn't see anybody do anything in  
17 regards to that murder, yourself, did you?

18 A. No, ma'am.

19 Q. And when you got picked up in Tennessee  
20 and brought back, and you wanted to cooperate with  
21 the Government, they gave you a recording device;  
22 right?

23 A. Yes, ma'am.

24 Q. And they put you next to Carlos Herrera;  
25 right?

1 A. Yes, ma'am.

2 Q. And that was in, I want to say, 2016?

3 A. Yes, ma'am.

4 Q. Do you remember when in 2016?

5 A. Maybe January.

6 Q. Maybe January. And do you know when  
7 Javier Molina was murdered?

8 A. I think 2014, maybe. I'm not exactly  
9 sure.

10 Q. So when you were placed next to Carlos,  
11 Javier Molina, the homicide happened two years prior  
12 to you being placed next to Carlos; right?

13 A. Yes, ma'am.

14 Q. And when you talked to Carlos about the  
15 murder of Javier Molina, he told you what he heard  
16 about the murder; isn't that true?

17 A. Yes.

18 MS. BHALLA: May I have a moment, Your  
19 Honor?

20 THE COURT: You may.

21 BY MS. BHALLA:

22 Q. Just a few more questions. You talked  
23 about other stuff with Carlos Herrera; is that fair  
24 to say?

25 A. Yes.

1 Q. And I think we saw some of the examples up  
2 there on the screen?

3 A. That's correct.

4 Q. And one of those examples was where he  
5 drilled a hole in the wall to store his drugs?

6 A. I think he was talking about drilling a  
7 hole through the visiting window to get drugs.

8 Q. Okay. To get drugs?

9 A. Yes.

10 Q. And that's not why Javier Molina is dead,  
11 is it?

12 A. No.

13 Q. And when you were picked up by the FBI,  
14 that was in -- remind me -- 2015?

15 A. December 2, 2015.

16 Q. And you were in Chattanooga, Tennessee?

17 A. I was in --

18 Q. Or close to there?

19 A. Yes, ma'am.

20 Q. Sorry. I'm -- I just -- Chattanooga  
21 stands out to me.

22 A. Right. I was taken to the Chattanooga FBI  
23 office, where I was processed.

24 Q. Okay. And somebody from Albuquerque came  
25 out there to talk to you, didn't they?

1 A. Yes.

2 Q. And so that was a pretty big deal, right,  
3 for them to come all the way out there to talk to  
4 you?

5 A. Yes.

6 Q. And they talked to you about -- they asked  
7 you a bunch of questions. And I think one of the  
8 things that you told them was that you didn't speak  
9 Spanish. Do you recall telling them that?

10 A. Yes.

11 Q. You do speak Spanish, don't you?

12 A. No, I don't.

13 Q. You don't speak Spanish?

14 A. I know slang words. But to carry on a  
15 conversation with you in Spanish, I wouldn't be able  
16 to do that.

17 Q. You will agree with me that you  
18 interpreted Spanish --

19 A. Right.

20 Q. -- on direct examination today in this  
21 courtroom.

22 A. Those were certain slang words that I'm  
23 aware of what they mean.

24 Q. Okay.

25 A. But I can't carry on a conversation with



1 you in Spanish.

2 Q. Okay. What's the word for "mess"?

3 A. Well, the lingo that was provided on this  
4 screen was a desmadre.

5 Q. And that means messy, right, or mess, in  
6 your understanding of the word?

7 A. Yes.

8 Q. Okay.

9 MS. BHALLA: I think I'll pass the  
10 witness, Your Honor.

11 THE COURT: Thank you, Ms. Bhalla.

12 Mr. Villa, Ms. Jacks?

13 MR. VILLA: We don't have any questions.

14 THE COURT: Thank you, Mr. Villa.

15 MS. JACKS: Nor do we, Your Honor.

16 THE COURT: Thank you, Ms. Jacks.

17 Mr. Beck, do you have redirect?

18 MR. BECK: Yes, I do.

19 REDIRECT EXAMINATION

20 BY MR. BECK:

21 Q. Mr. Archuleta, a few moments ago Ms.  
22 Bhalla was asking you about institutional knowledge  
23 and prison talk. Do you recall that?

24 A. Yes.

25 Q. And I think she was asking you whether SNM

1 inmates, after an SNM assault happens -- whether  
2 they talk about it on the yard. Do you remember  
3 that?

4 A. Yes.

5 Q. And do SNM inmates talk about official SNM  
6 hits in the yard after they happen?

7 A. Yes, they do.

8 Q. And is that a method that the SNM uses to  
9 learn who is involved in all of the SNM assaults or  
10 murders?

11 A. Yes, it is.

12 Q. And then Mr. Lowry was asking you about, I  
13 think, a young man at the methadone clinic who said  
14 that he had been brought in by Gerald Archuleta?

15 A. Yes.

16 Q. Was that true? Did you bring him in?

17 A. No, I didn't.

18 Q. So was that something that was disproven,  
19 a rumor that was proved wrong within the SNM?

20 A. I don't think it was among the S, the SNM.  
21 He was never a member. And it was never an issue.  
22 We were kind of making light of it that day, because  
23 this guy claimed to have known me, and he didn't  
24 even know me. And he came up with this wild story,  
25 and it wasn't true.

1 Q. So would you say pretty quickly everyone  
2 knew that was not true?

3 A. Well, yes.

4 Q. And then I think he asked you about  
5 someone claiming a hotshot of Popeye. Do you  
6 remember that?

7 A. Yes.

8 Q. And what is a hotshot?

9 A. A hotshot is when you mix a foreign  
10 substance with, say, a shot of heroin so that it  
11 kills you.

12 Q. And is that a way to intentionally kill  
13 someone with drugs?

14 A. Yes.

15 Q. Okay. In the prison talk on the yard, did  
16 all the SNM members talk about how this person gave  
17 Popeye a hotshot?

18 A. Yes.

19 Q. And did they believe that that was true?

20 A. Some did, some didn't.

21 Q. Were there other members who also were  
22 there participating when this Billy Baca gave Popeye  
23 a hotshot?

24 A. Not that I'm aware of.

25 Q. And as far as you're aware, did anyone

1 come forward and claim that they ordered the  
2 hotshot?

3 A. No.

4 Q. I think you said, when Mr. Lowry asked you  
5 about the three different sort of groups that  
6 formed -- was one of the groups your group under  
7 Angel Munoz?

8 A. Yes.

9 Q. Was the second group, then, Billy Garcia's  
10 group?

11 A. Yes.

12 Q. And was that the group under which Julian  
13 Romero fell?

14 A. Yes.

15 Q. And was the third group Marty Barros'  
16 group?

17 A. Marty, no.

18 Q. Who was the third group?

19 A. It was Julian Romero, Billy Garcia, and I  
20 don't believe that there were any other groups that  
21 participated in that feud.

22 Q. Where did Marty Barros fit into these  
23 groupings?

24 A. I don't think Marty Barros -- I don't even  
25 know where Marty Barros was at the time. I've never

1 talked to Marty Barros about the Julian Romero  
2 issue.

3 Q. Where did Mr. Baca, Anthony Ray Baca, Pup,  
4 fit into these groups?

5 A. He didn't. He was out of state.

6 Q. In 2015, in July 2015, did you order  
7 anyone to assault Julian Romero?

8 A. No.

9 Q. And when Chris Garcia -- Chris Garcia --  
10 is he an SNM member?

11 A. Yes.

12 Q. Is he the one who told you about it?

13 A. Yes.

14 Q. And when he called you and told you that  
15 Julian Romero was assaulted, were you actually  
16 surprised by that when he called you?

17 A. Yes.

18 MR. BECK: Nothing further, Your Honor.

19 THE COURT: All right. Thank you, Mr.  
20 Beck.

21 All right. Mr. Archuleta, you may step  
22 down.

23 Did you have something else, Mr. Lowry?

24 MR. LOWRY: Very briefly, Your Honor.

25 THE COURT: All right. Mr. Lowry.

25 | A. Yes.

1 Q. And people call you Styx because you are  
2 thin.

3 A. Yes.

4 Q. And another word for Styx is, I think --  
5 the Spanish term is palitos?

6 A. People called me Palitos.

7 Q. And again, you put the original call out  
8 on Julian Romero?

9 A. The original hit.

10 Q. The original hit?

11 A. Yes, I did.

12 Q. And despite Billy Garcia asking you to  
13 call it off, despite his nephew trying to kill you  
14 over it, you never called it off, did you?

15 A. I never called it off.

16 MR. LOWRY: No questions, Your Honor.

17 THE COURT: Thank you, Mr. Lowry.

18 Mr. Beck, do you have redirect?

19 MR. BECK: Briefly, Your Honor.

20 THE COURT: Mr. Beck.

21 REDIRECT EXAMINATION

22 BY MR. BECK:

23 Q. When you pled guilty in this case, did you  
24 plead guilty to the charge for conspiring to assault  
25 Julian Romero?

1 A. Yes, I did.

2 Q. But in 2015, did you order anyone to  
3 assault Julian Romero?

4 A. In 200- -- no.

5 MR. BECK: Nothing further, Your Honor.

6 THE COURT: Thank you, Mr. Beck.

7 All right. Mr. Archuleta, you may step  
8 down.

9 Is there any reason Mr. Archuleta cannot  
10 be excused from the proceedings, Mr. Beck?

11 MR. BECK: Not from the Government.

12 THE COURT: How about from the Defendants?  
13 Can he excused?

14 MR. LOWRY: He may be excused.

15 MR. VILLA: Yes, Your Honor.

16 THE COURT: All right. You are excused.  
17 Thank you for your testimony.

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
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2 STATE OF NEW MEXICO

3  
4 C-E-R-T-I-F-I-C-A-T-E

5 I, Jennifer Bean, FAPR, RDR, CRR, RMR, CCR,  
6 Official Court Reporter for the State of New Mexico,  
7 do hereby certify that the foregoing pages  
8 constitute a true transcript of proceedings had  
9 before the said Court, held in the District of New  
10 Mexico, in the matter therein stated.

11 In testimony whereof, I have hereunto set my  
12 hand on this 15th day of March, 2018.

13  
14   
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